

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1443

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Pg 5

IN THE
United States Court of Appeals
For the Second Circuit

UNITED STATES OF AMERICA,

Appellee,

against

ELYAKIM G. ROSENBLATT,

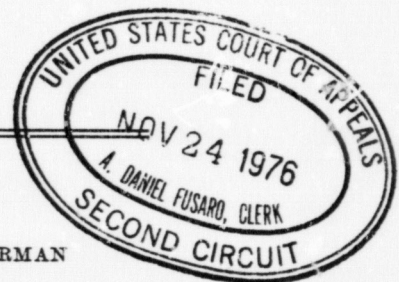
Defendant-Appellant.

On Appeal from the United States District Court
for the Southern District of New York

APPELLANT'S APPENDIX

VOLUME I OF TWO VOLUMES

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Felony ☒ JUDGE/MAGISTRATE Assigned Trial
 Other Offense ☐ MAGISTRATE 0847 U.S. vs. ROSENBLATT, ELYAKIM G.
 Other Misdemeanor ☐ 0208 1 Disp./Sentence
 District Office

10/02/76 014
 of 02 Defendants

CHARGES U.S. CODE SECTION 18:371 OFFENSES Consp to defraud, the U.S. COUNTS 1

U.S. Attorney or Asst. Angus Macbeth (212) 791-1989
 Defendant: CJA, R, Waived, Self, None, Other, PD, L, CD

ARRAIGNMENT 2-10-76

Warrant: ☐ Forfeiture ☐ Bond ☐ Waived ☐ Subpoena ☐ Indictment

Trial: ☐ Trial Set For ☐ Trial Began ☐ Trial Ended

Disposition: ☐ Convicted ☐ Acquitted ☐ Dismissed

MAJOR CASE NO. ☐ Denied ☐ AMT Set (1000) ☐ Bail Not Made ☐ Bail Status Changed (See Docket)

III. MAGISTRATE

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING		<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U.S. District AT:
Summons	Issued			<input type="checkbox"/> Waived <input type="checkbox"/> Not Waived	Date Scheduled _____ Date Held _____ <input type="checkbox"/> Intervening Indictment	
Arrest Warrant	Served			Tape No.	INITIAL/No.	Magistrate's Initials
COMPLAINT						
OFFENSE (In Complaint)						

* Show last names and suffix numbers of other defendants on same indictment/information

Brooks-1.

DATE

PROCEEDINGS

V. Exch.

(a) (b)

2-10-76 Filed indictment.

2-23-76 Deft. (Atty. present) pleads not guilty. Bail set at \$10,000 P.R.B. Case assigned to Motley, J. for all purposes. Tenney, J.

3-2-76 Filed notice of appearance by Kuh, Shapiro, Goldman, Cooperman & Levitt 800 Third Ave. NYC 10022.....688-7000

2-24-76 Filed appearance bond in amt. of \$10,000...

4-26-76 Filed affdvt. & notice of motion for and order dismissing count 1, for dismissal of the indictment, for severance, for discovery, for bill of particulars etc. Ret. May 13, 1976...

5-3-76 Filed memorandum in support of omnibus motion.

5-14-76 Filed Govts notice of readiness for trial.

5-19-76 Filed Govts ANSWER to defts omnibus motion...

5-21-76 P/T Conf. Held & Concluded trial to commence on 8-10-76 10 am. MOTLEY, J.

6-18-76 ~~Matters for discovery~~ P/T conf. held & concluded..Defts motion to dismiss indictment denied. Motions for discovery will be taken under advisement. Trial adjd to 8-10-76 10 a.m....Motley, J.

7-18-76 Filed Deft's Affidavits and Notice of Motion for an order disqualifying Hon. Constance Baker Motley from presiding over any further proceedings upon the instant indictment. etc., RET: 7-20-76 9:30 AM.

OPPOSITE THE APPLICABLE DOCKET ENTRIES IN SECTION IV SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE

JUDGE MOTLEY

V. MAGISTRATE DISTRICT COURT DOCKET ENTRIES

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
07-28-76	Filed memo endorsed on motion filed 7-13-76..The attached motion under 28 U.S.C. 144 is denied. Opinion to follow...MOTLEY, J. m/n				
07-28-76	Filed Govt's answer to motion for the recusal of Judge Motley				
08-10-76	Filed Opinion # 44951-- for the reasons stated, the court saw fit to deny deft's motion for disqualification.. MOTLEY, J. (m/n)				
08-10-76	(Atty. R. Goldman present).. JURY trial began				
08-11-76	trial cont'd.				
08-12-76	trial cont'd.. Jury deliberations begun.				
08-13-76	trial cont'd. Jury return with a verdict of GUILTY.. P.S.I. ordered.. Sent. adjd to 9-24-76, 11a.m.. Bail cont'd.. Trial concluded..... MOTLEY, J.				
8-20-76	Filed true copy of USCA order that the petition for a writ of mandamus is denied.				
09-23-76	Filed Affidvt. and Notice of Motion for an Order setting aside the verdict of guilty. Ret. 09-24-76				
9-24-76	Filed Judgment (Atty. Robert Goldman, present) The defendant is committed for imprisonment for a period of SIX (6) MONTHS. The defendant is fined \$8,000. The fine of \$8,000 is a committed fine and the defendant is to stand committed until the fine is paid or he is otherwise discharged according to law. MOTLEY, J. Entered on: 9-27-76				
JUDGMENT NO. 76,868					
9-24-76	Filed Notice of Appeal of deft to USCA 2nd Circuit from Judgment of Sept. 24, 1976, Motley, J. Mailed Notice to atty for deft Robert Goldman, 100 Third Ave. NYC 10022. Copy to U.S. Atty.				
9-27-76	Filed Govt's Memorandum of Law in opposition to Deft's motion for a new trial.				
9-24-76	Filed Surety Bond pending appeal in the sum of \$50,000, Midland Insurance Company. NYC.				
10-12-76	(Rec'd from Judge Motley's chambers) Filed Memo-Endorsed on copy of motion filed 9-23-76.....the within motion for a directed verdict of acquittal for a new trial is denied. So Ordered. MOTLEY, J				
10-12-76	Filed Deft's request to voir dire.				
10-12-76	Filed Deft's request to charge				
10-12-76	Filed Deft's Memorandum in support of its omnibus motion.				
10-12-76	Filed Govt's Requests to charge.				
10-12-76	Filed Govt's Memorandum of Law in opposition to deft's motion for a new trial.				
10-12-76	Filed Govt's Answer to deft's motion for the recusal of Judge Motley.				
10-12-76	Filed Notice that original record on appeal has been Certified and Transmitted to USCA for the Second Circuit this day.				

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

76 CRIM. 112

UNITED STATES OF AMERICA

- v -

MORRIS D. BROOKS and
ELYAKIM G. ROSENBLATT,

Defendants.

Indictment

76 Cr.

COUNT ONE

The Grand Jury charges:

Introduction

1. From on or about July 1, 1974 and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, MORRIS D. BROOKS and ELYAKIM G. ROSENBLATT, the defendants, unlawfully, wilfully and knowingly combined, conspired, confederated and agreed together and with each other to defraud the United States.

2. From on or about July 1, 1974 until on or about December 12, 1975, MORRIS D. BROOKS, the defendant, was an employee of the United States Postal Service working in the accounts payable section of the Postal Service's New York Postal Data Center.

3. At all times material to this Indictment ELYAKIM G. ROSENBLATT, the defendant, controlled the bank account of the Rabbinical College of Queens.

The Means By Which the Conspiracy
Was Carried Out

4. Among the means by which the defendants would and did carry out the conspiracy were the following:

(a) From approximately in or about July, 1974

to in or about July, 1975, on eight separate occasions, MORRIS D. BROOKS, the defendant, made false entries in the accounts of the Postal Service which entries resulted in the issuing of eight checks drawn on the Treasurer of the United States for a total of approximately \$183,509.30, all of which were recorded as payments in accounts which MORRIS D. BROOKS, the defendant, had falsified.

(b) From in or about July, 1974 to in or about August, 1975, MORRIS D. BROOKS, the defendant, obtained possession of the eight checks issued as a result of his having made false entries and he endorsed the name of the payee on each check.

(c) Beginning in or about July, 1974 and on numerous occasions thereafter, MORRIS D. BROOKS, the defendant, discussed the cashing of the checks with ELYAKIM G. ROSENBLATT, the defendant, telling him that the payees did not wish to have the checks pass through their accounts for various nefarious reasons including, but not limited to, attempting to evade the payment of federal taxes by the payees.

(d) Thereafter, pursuant to an agreement with MORRIS D. BROOKS, the defendant, ELYAKIM G. ROSENBLATT, the defendant, did deposit each check into the account of the Rabbinical College of Queens and pay MORRIS D. BROOKS, the defendant, approximately 90% of the face amount of each check, retaining approximately 10% for himself.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In or about July, 1974, in the Southern District of New York, defendant MORRIS D. BROOKS made false entries on a

Postal Service Form 1951 resulting in the issuing of a check drawn on the Treasurer of the United States and payable to Sara Dudley Brown in the amount of \$4,500.00.

2. In or about July, 1974, in the Southern District of New York, defendant MOEPIS D. BROOKS made false entries on a Postal Service Form 1951 resulting in the issuing of a check drawn on the Treasurer of the United States and payable to Gloria G. Brown in the amount of \$5,500.00.

3. On or about July 15, 1974, in Queens County, New York, defendant ELYAKIM G. ROSENBLATT endorsed his name on the said check payable to Sara Dudley Brown and thereafter deposited the said check payable to Sara Dudley Brown into the account of the Rabbinical College of Queens.

4. On or about July 15, 1974, in Queens County, New York, defendant ELYAKIM G. ROSENBLATT endorsed his name on the said check payable to Gloria G. Brown and thereafter deposited the said check payable to Gloria G. Brown into the account of the Rabbinical College of Queens.

5. On or about October 28, 1974, in Queens County, New York, defendant ELYAKIM G. ROSENBLATT, endorsed a check drawn on the Treasurer of the United States payable to James K. Sullivan in the amount of \$9,704.35 with the stamp of the Rabbinical College of Queens and thereafter deposited the said check payable to James K. Sullivan into the account of the Rabbinical College of Queens.

6. On or about December 1, 1974, in Queens County, New York, defendant ELYAKIM G. ROSENBLATT endorsed a check drawn on the Treasurer of the United States payable to the H. L. Dalis in the amount of \$27,204.95 with the stamp of the Rabbinical College of Queens and thereafter deposited the said check payable to H. L. Dalis in the amount of \$27,204.95 into the account of the Rabbinical College of Queens.

7. On or about January 6, 1975, in Queens County, New York, defendant MORRIS D. BROOKS cashed a check payable to him in the amount of \$24,200.00 drawn on the account of the Rabbinical College of Queens and signed by defendant ELYAKIM G. ROSENBLATT.

8. On or about March 18, 1975, in Queens County, New York, defendant ELYAKIM G. ROSENBLATT endorsed a check drawn on the Treasurer of the United States payable to H. L. Dalis in the amount of \$32,000.00 with the stamp of the Rabbinical College of Queens and thereafter deposited the said check into the account of the Rabbinical College of Queens.

9. On or about April 29, 1975, in Queens County, New York, defendant ELYAKIM G. ROSENBLATT, endorsed a check drawn on the Treasurer of the United States payable to H. L. Dalis in the amount of \$24,600.00 with the stamp of the Rabbinical College of Queens and thereafter deposited the said check into the account of the Rabbinical College of Queens.

10. In or about July, 1975, in the Southern District of New York, defendant MORRIS D. BROOKS made false entries on a Postal Service Form 1951 resulting in the issuing of a check drawn on the Treasurer of the United States and payable to H. L. Dalis in the amount of \$38,500.

11. In or about July, 1975, in the Southern District of New York, defendant MORRIS D. BROOKS made false entries on a Postal Service Form 1951 resulting in the issuing of a check drawn on the Treasurer of the United States payable to Frank P. Conley in the amount of \$41,500.

12. On or about July 31, 1975, in Queens County, New York, defendant ELYAKIM G. ROSENBLATT endorsed the said check payable to Frank P. Conley in the name of the Rabbinical College of Queens and thereafter deposited the said check into the account of the Rabbinical College of Queens.

13. On or about August 6, 1975, in Queens County, New York, defendant MORRIS D. BROOKS negotiated a check payable to him in the amount of \$17,350 drawn on the account of the Rabbinical College of Queens and signed by defendant ELYAKIM G. ROSENBLATT, the defendant.

14. On or about August 6, 1975, in Queens County, New York, defendant MORRIS D. BROOKS, negotiated a check payable to him in the amount of \$12,000 drawn on the account of the Rabbinical College of Queens and signed by defendant ELYAKIM G. ROSENBLATT.

15. On or about August 8, 1975, in Queens County, New York, defendant MORRIS D. BROOKS negotiated a check payable to him in the amount of \$12,150 drawn on the account of the Rabbinical College of Queens and signed by defendant ELYAKIM G. ROSENBLATT.

16. On or about August 15, 1975 in Queens County, New York, defendant ELYAKIM R. ROSENBLATT endorsed the said check payable to H. L. Dalis in the amount of \$38,500 in the name of the Rabbinical College of Queens and thereafter deposited the said check into the account of the Rabbinical College of Queens.

(Title 18, United States Code, Section 371)

COUNTS TWO THROUGH NINE

The Grand Jury further charges:

On or about the dates set out below, in the Southern District of New York, MORRIS D. BROOKS, the defendant, being an officer, clerk, agent and other employee of the United States

Postal Service, charged with the duty of keeping accounts and records, unlawfully, wilfully, and knowingly, with intent to deceive, mislead, injure and defraud, did make in such accounts and records false and fictitious entries and records of matters relating to and connected with his duties, to wit, entries on Postal Service Forms 1951 resulting in the apparent reduction of the debt of the United States Postal Service to the Control Data Corporation and in the issuing of checks drawn on the Treasurer of the United States payable to the following persons in the following amounts:

<u>COUNT</u>	<u>DATE</u>	<u>PAYEE</u>	<u>AMOUNT</u>
2	July, 1974	Sara Dudley Brown	\$ 4,500.00
3	July, 1974	Gloria G. Brown	\$ 5,500.00
4	October, 1974	James K. Sullivan	\$ 9,704.35
5	December, 1974	H. L. Dalis	\$27,204.93
6	March, 1975	H. L. Dalis	\$32,000.00
7	April, 1975	H. L. Dalis	\$24,600.00
8	July, 1975	H. L. Dalis	\$38,500.00
9	July, 1975	Frank P. Conley	\$41,500.00

(Title 18, United States Code, Section 2073)

John A. Turner
FOREMAN (Deputy)

Thomas J. Cahill
THOMAS J. CAHILL
United States Attorney

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA

-against-

ELYAKIM G. ROSENBLATT,

Defendant.

:
:
76 Cr. 142
:
:
:

-----x
August 10, 1976
10:00 a.m.

BEFORE:

HON. CONSTANCE BAKER MOTLEY

District Judge
and a jury

APPEARANCES:

ROBERT B. FISKE, JR., ESQ.
United States Attorney for the
Southern District of New York
BY: ANGUS MacBETH, ESQ.,
Assistant United States Attorney

ROBERT E. GOLDMAN, ESQ.
ANDREW R. COOPER, ESQ.
Attorneys for the Defendant.

1 bse

2 THE COURT: All right, at this time I will ask
3 the clerk to swear the jurors and the alternate juror.

4 (A jury of 12 and one alternate was duly
5 impan led and sworn by the Clerk of the Court.)

6 THE COURT: At this time we are going to take
7 a brief recess.

8 The jurors will follow the clerk to the jury
9 room so that you will know where that is, and when you come
10 in in the morning, please report to the jury room.

11 When you return from a luncheon recess, or
12 any other recess, wait in the jury room until the clerk
13 brings you in. You will go in there now for a few moments.

14 (Jury excused.)

15 THE COURT: What I plan to do, gentlemen, is
16 to give the jury some preliminary instructions and then
17 have opening statements and recess until 9:30 tomorrow
18 morning.

19 We will recess now for a few moments.

20 (Recess.)

21 (Jury present. In open court.)

22 THE COURT: All right, ladies and gentlemen,
23 at this time I'd like to give you some preliminary instruc-
24 tions.

25 You recall that I told you earlier that after

1 bse

2 all of the evidence in the case is in, it would be my
3 responsibility to instruct you as to the law applicable
4 to this case. But at this time, before the commencement
5 of the trial, I'd like to give you some preliminary
6 instructions.

7 The first is that you must pay careful atten-
8 tion to the testimony and other evidence as it is being
9 received in this case because as the jurors it is going
10 to be your exclusive duty to decide the disputed fact
11 issues.

12 Obviously, if you have not been paying atten-
13 tion, or if you have been letting your mind wander, or
14 you have been falling asleep, you are not going to be
15 able to perform that function very well. I'm sure that
16 you all realize that trial by jury is a basic and cherished
17 institution in our system and that it is the duty of the
18 Court to afford all parties before it a fair and impar-
19 tial trial.

20 It must be clear to you that no one receives
21 a fair trial if the jurors are not paying attention. I
22 know that you can't pay attention indefinitely, no one
23 can.

24 In addition to the usual luncheon recess,
25 therefore, we will have each morning and each afternoon, a

1 bse

2 recess so that you may have a chance to relax and not
3 have to concentrate. While the testimony and other evi-
4 dence is being received, you must pay careful attention.

5 As I told you before, this is a criminal
6 case, and therefore the burden of proof is on the Govern-
7 ment, and that burden is to prove the defendant, who is
8 now on trial, guilty of the charge of conspiracy to defraud
9 the United States beyond a reasonable doubt.

10 As I pointed out earlier, also, in a criminal
11 case a defendant does not have to prove that he is
12 innocent of any charge made in an indictment. A defendant
13 is presumed innocent, and this presumption of innocence
14 remains with him throughout the entire trial.

15 The presumption of innocence remains with
16 him even while you are deliberating in the jury room.
17 This presumption of innocence is removed only if and
18 when, after your deliberations in the jury room, you come
19 to the conclusion that the Government has sustained its
20 burden of proof, and that is to prove that this defendant
21 is guilty as charged beyond a reasonable doubt.

22 I remind you again that the indictment, which
23 I read in part to you earlier, and summarized, is not
24 proof or evidence, it is merely an accusation and has no
25 evidentiary value.

1 bse

2 An indictment returned by a grand jury is a
3 method or procedure which we employ in our system whereby
4 persons are accused by grand juries of crimes, and then
5 they are brought into court where their guilt or innocence
6 is determined by a petit jury or trial jury just as
7 you are.

8 Again, with respect to this charge, the
9 Government has the burden of proving the defendant before
10 you is guilty beyond a reasonable doubt because, as I've
11 said, he is presumed innocent.

12 During the course of the trial it will be my
13 responsibility to rule on motions and objections which are
14 made by the lawyers.

15 My rulings on these matters should not concern
16 you because they will have to do with questions of law and
17 not questions of fact which are exclusively within the pro-
18 vince of the jury. My ruling as to any motion or objection
19 made by a lawyer should not be construed by you as indi-
20 cating any view on my part as to the guilt or innocence
21 of the defendant or the truth or falsity of these charges;
22 they have to do with questions of law and not questions of
23 fact.

24 Your job, as I have said, is to focus on the evi-
25 dence and the evidence in a case consists of three things:

1 bse

2 First, it will consist of the testimony of
3 witnesses who are going to take the witness stand right
4 here before you, so you can see them and hear them and
5 observe their manner and demeanor while testifying on the
6 witness stand, because one of your duties is going to be
7 to assess the credibility of the witnesses; so it is your
8 duty to observe them carefully as they are testifying.

9 The evidence in the case will also consist of
10 any documents which are actually received in evidence.

11 Finally, the evidence will consist of any
12 stipulations as to certain facts which the lawyers might
13 enter into. That is, they may agree among themselves that
14 certain facts or a witness need not be called, or if he is
15 called he will testify to a certain fact or to certain
16 facts.

17 So those three things, the testimony of the
18 witnesses, the documents actually received in evidence,
19 and any stipulations which the lawyers might enter into as
20 to certain facts, those three things constitute the evi-
21 dence in the case.

22 All of that is to emphasize that statements
23 made by lawyers or by the court, the judge, is not evidence.

24 When I finish these brief remarks, the case will
25 start with an opening statement by the Government counsel,

1 bse

2 and perhaps by the defendant's counsel.

3 As I told you, in a criminal case the defendant
4 doesn't have to say anything, he doesn't have to make any
5 opening statement, but the defendant may do so if he wishes
6 to do so, but the Government must do so, and so the Govern-
7 ment will make an opening statement.

8 After all the evidence is in, each party will
9 have an opportunity to sum up the evidence, and that is to
10 give you their views of what they believe the evidence
11 shows or does not show.

12 During the course of the trial there may be
13 discussions between the lawyers and myself. These discus-
14 sions, and any statements made by lawyers, aren't evidence.

15 As the evidence comes in, you will want to keep
16 an open mind until you've heard the whole case. For that
17 reason you must refrain from discussing the case among your-
18 selves until you have finally retired to the jury room to
19 delibera e.

20 For that reason, also, you must refrain from
21 discussing the case with your family and your friends when
22 you go home at night because if you do that the first thing
23 you know somebody will start telling you about some other
24 case they heard about or read about in the newspaper or saw
25 on the television, and although you don't intend it, those

1 bse

2 discussions are apt to influence your judgment here, and as
3 I've told you repeatedly now, your judgment in this case
4 must be based solely on the evidence presented in this case
5 in court at this time and not on what somebody heard about
6 some other case or read in the newspaper or saw on a tele-
7 vision.

8 So please don't discuss it with anyone at any
9 time for any reason until you have finally retired to the
10 jury room to deliberate, and that's after all the evidence
11 is in and after I have instructed you as to the law, because
12 it is only then that you have the whole case.

13 Fairness to both parties requires that you not discuss the
14 case until you have heard the whole case.

15 Should anyone attempt to speak to you about this
16 case, or anything of that nature, please don't come in and
17 tell your fellow jurors about it, but tell me about it and
18 let me know immediately. As I have said, you are not to
19 talk about this case to anyone for any reason at any time.

20 There is a cafeteria in this building on the
21 28th floor, but that cafeteria is limited to persons who
22 work in this building and next door in the United States
23 Attorney's office, so jurors are not to be found in that
24 cafeteria because there will be U. S. Attorneys and other
25 employees in the court perhaps discussing cases up there, so

1 bse

2 please don't use the cafeteria on the 28th floor.

3 If there should be any newspaper articles
4 concerning this case, you are not to read any newspaper
5 stories. I don't know that there will be, but if there
6 are any such stories, please don't read anything in the
7 newspaper regarding this case.

8 If you do so inadvertently, when you come in
9 in the morning, please don't tell your fellow jurors about
10 that either, but let me know.

11 The same is true of any radio or television
12 nes reports. As I have said, I don't know that there will
13 be any publicity but if there should be, please do not
14 read it or listen to it or discuss it with anyone, but
15 let me know when you come in in the morning.

16 As I have said, when you serve on a jury you are
17 playing a vital role in the administration of justice.
18 Trial by jury is a b-sic and cherished institution in our
19 system, and I am sure that you want to give the parties who
20 are now before you on trial the same fair trial which
21 you would expect if you were a litigant in a lawsuit.

22 So, finally, again, please pay careful atten-
23 tion.

24 At this time the trial will commence with an
25 opening statement by the Government's counsel, Mr. Angus

1 bse

2 MacBeth.

3 Are you ready, Mr. MacBeth?

4 MR. MAC BETH: I am, your Honor.

5 May it please the Court, Judge Motley, Mr.
6 Goldman, ladies and gentlemen of the jury.

7 This is a case about an agreement, but it isn't
8 an ordinary business agreement, to make a loan or help
9 out a friend in need, this is a case about an agreement to
10 defraud the Federal Government, an agreement under which
11 the defendant here, Elyakim Rosenblatt, and another man,
12 a friend and acquaintance of his named Morris Brooks, agreed
13 to work together so that they could put a lot of money into
14 their pockets at the Government's expense by unlawful and
15 illegal means.

16 Judge Motley has told you, my name is Angus
17 MacBeth, and I am an Assistant United States Attorney, and
18 it is my privilege and duty to represent the United States
19 in this case and to put before you the Government's evi-
20 dence in this case.

21 Judge Motley has told you that this is a crim-
22 inal trial and that you have been chosen as jurors to decide
23 this case on the basis of the testimony that you will hear
24 from the witness stand and the documents that will be
25 introduced into evidence. On that basis you must decide

1 bse

2 whether or not Elyakim Rosenblatt is guilty of the crime of
3 which he is charged, having entered into a conspiracy to
4 defraud the United States.

5 This is a very important task and a very serious
6 duty. It is important to Mr. Rosenblatt, who sits here
7 as the defendant in the case, and it is important to the
8 Government. It is important to the Government because it
9 seeks to protect its citizens from crime and it is important
10 because of what is involved in this case is fraud against
11 the Government, and the taxpayers of this country.

12 It is my job now to give you an outline or
13 introduction of the evidence that you will hear during the
14 trial.

15 You will hear that Morris Brooks, who is a
16 Post Office employee, who worked in the Postal Data Center
17 at the main Post Office here in Manhattan, an accountant's
18 job -- of course the Post Office is a big business, it buys
19 things as different as paper and printing work, computer
20 services and electrical supplies from thousands of different
21 sellers or vendors across the country.

22 Brooks worked in handling bills or invoices from
23 those vendors and part of his job was getting up the
24 checks to pay the Post Office his bills.

25

bsjb 1

12

The Postal Service has a system for paying these bills which involves entering codes on a ledger sheet and the ledger sheet is then fed to a computer which prints the checks. The schedule of payment of the checks comes back, that is verified and then these checks are sent out either directly in the mail or they go in a pouch to Washington.

Now, an important point here is that Brooks figured out a way to make false entries on those ledger sheets so that checks would be issued to people who didn't have any claim against the Post Office. The Post Office didn't owe them any money. Brooks also figured out a way to get those checks either mailed to himself or put into the pouch for Washington and then he'd take them out of the pouch and take them home.

Brooks made his first set of false entries on the Post Office's accounts in July of 1974 and at that time he had two checks printed up, one for a payee named Gloria Brown and the other was made out to a Sara Dudley Brown.

Brooks took those checks for himself.

His problem then was to get the checks cashed. First Brooks endorsed the check with the name of the payee, and he did that himself, and then after that he went to a neighbor of his named David Hardoon and showed Hardoon

1 bsjb 2

2 the checks and told Hardoon the checks were a loan from
3 the payee on the front, Gloria Brown, and he asked Hardoon
4 if he, Hardoon, would cash it. Hardoon said he didn't
5 have the money in the bank to cash it, he couldn't do it.

6 So next Brooks went to Elyakim Rosenblatt, the
7 defendant here. Rosenblatt had known Brooks for many
8 years, he was an old acquaintance of his. Brooks showed
9 the checks to Rosenblatt. Rosenblatt asked him where he
10 got the checks, and that wasn't a very surprising question,
11 because these weren't 25 or \$50 grocery checks, or even a
12 \$500 check for a tax refund, one of these checks was
13 for \$4500, and the other check was for \$5500.

14 So in two checks Brooks had \$10,000. Brooks
15 told Rosenblatt the payees on the check wanted to avoid
16 their income tax and for that reason they didn't want to
17 pass these checks through their own accounts. Rosenblatt
18 didn't say that he didn't want to go through with the
19 scheme on that basis, he was satisfied with the story
20 that Brooks told him and he agreed to cash the checks.
21 But he wasn't willing to do it as a favor. He demanded
22 10 per cent of the value of the check.

23 Naturally, Brooks wasn't pleased with that
24 arrangement, but he agreed to it. Rosenblatt cashed those
25 checks in July, 1974, and he took \$1,000 for his troubles.

1 bsjb 3

2 Over the next 13 months, from July of '74 through
3 August of 1975, Brooks made more false entries in the
4 Post Office books and took out more checks which he
5 wasn't entitled to. He did that on six occasions and
6 Brooks didn't bother with small checks, he took large
7 ones. The total of those six checks was over \$170,000.

8 Brooks took all those checks to Rosenblatt and
9 Rosenblatt cashed them all for 10 per cent of the proceeds.
10 Before the whole scheme was over, Rosenblatt put over
11 \$18,000 in his pocket and Brooks had taken the rest.

12 Brooks will testify at this trial. He will
13 tell you of his conversations with Rosenblatt. He will
14 testify about their trips to the bank and how he and
15 Rosenblatt got the cash for the checks and how he turned
16 over the 10 per cent to Rosenblatt.

17 He will tell you that there were two basic
18 stories that he told Rosenblatt about the checks. First,
19 that the payees were trying to dodge income tax, and for
20 that reason didn't want to put the checks through their
21 bank accounts. Second, that he told Rosenblatt that the
22 payees were getting kickbacks or payols from the Post
23 Office.

24 There were those two basic stories on the
25 payees. Either they were beating the government out of

1 bsjb 4

2 taxes or they were beating the government out of a fair
3 contract.

4 On the basis of that explanation, Rosenblatt
5 was willing to help out with the scheme; as long as he got
6 his 10 per cent he was willing to cash the checks.

7 The government will not put Brooks on the stand
8 because he was a hero of any kind. He was stealing from
9 the Post Office and he knew it. But he is the person who
10 can testify as to what Rosenblatt agreed to. The govern-
11 ment presents him as a witness in this case because he
12 knew what was going on with the defendant here, Elyakim
13 Rosenblatt.

14 There will be other witnesses who talked with
15 Rosenblatt and who dealt with him in the course of time
16 that year while these checks were being cashed. Their
17 testimony will fill out the basic overview of the facts
18 which I have given you here.

19 Rosenblatt agreed with Brooks to help people,
20 the payees of these checks, beat their income taxes and
21 get kickbacks, and he made a lot of money doing it. He
22 made more than \$18,000 for cashing eight checks, and the
23 evidence will show that he made that money because he set
24 up a deal with Morris Brooks which he knew was fraudulent.

25 Ask yourselves, as you hear the evidence, whether

1 bujb 5

2 there is any other explanation that agrees with your common
3 sense for a man getting \$18,000 for cashing eight checks,
4 eight checks that are drawn on the Treasury of the United
5 States.

6 MR. GOLDMAN: Your Honor, I object. One, that
7 was summation; two, that is prejudicial.

8 THE COURT: I don't know specifically what state-
9 ment you are objecting to.

10 MR. GOLDMAN: The last statement, your Honor,
11 "Ask how your common sense would react." That is an
12 editorial comment upon the evidence which is a matter of
13 summation.

14 He has also indicated that the repetitive fraud
15 against the United States in terms of those consents, your
16 Honor, and that is summation. Those are not things that
17 Mr. MacBeth is going to produce from mouths of witnesses.

18 THE COURT: All right. Try not to editorialize,
19 Mr. MacBeth. Try to just tell the jury what you expect
20 to prove.

21 MR. MacBETH: I will, your Honor.

22 I have given you the basic facts that the govern-
23 ment will prove in this case, the agreement that existed
24 between Elyakim Rosenblatt and Morris Brooks. Brooks will
25 testify to that. Other witnesses will testify to things

1 bsjb 6

2 that Rosenblatt said to them, things that Brooks said to
3 them, will allow you to see the basic testimony that you
4 will hear from Morris Brooks is an accurate story.

5 I don't believe that this case will take long
6 to try, but it is important. It is important to Elyakim
7 Rosenblatt and it is important to the government.

8 Your job, and it is a very important job, is to
9 weigh the evidence carefully; pay close attention to what
10 the witnesses say. Above all, abide by your oath as
11 jurors to render fair and impartial justice.

12 The government is confident, when all the evi-
13 dence is in, that you will find Elyakim Rosenblatt guilty
14 as charged.

15 Thank you.

16 THE COURT: Thank you, Mr. MacBeth.

17 Mr. Goldman, do you care to make an opening
18 statement at this time?

19 MR. GOLDMAN: Yes, your Honor.

20 Judge Motley, Mr. MacBeth, Madam Foreman, ladies
21 and gentlemen of the jury:

22 Mr. MacBeth indicated to you that he had a duty
23 and a privilege to present this case to you on behalf of
24 the United States. He didn't mention a duty and privilege
25 that both of us have, you as the jury and I as the defense

1 bsjb 7

2 lawyer, + insure, if that be the fact, that an innocent
3 man is not wrongfully convicted of a crime.

4 He has indicated to you that he intends to bring
5 to the stand one Morris Brooks, and he has indicated that
6 the government will attempt to prove that Morris Brooks
7 stole certain checks. The defense does not dispute that
8 in any regard whatsoever; we acknowledge Morris Brooks
9 to be a thief by his own admission.

10 We will prove, and the government concedes, how-
11 ever, that Rabbi Rosenblatt had absolutely nothing to do
12 with those thefts, nor did he have the slightest knowledge
13 of their existence.

14 His first involvement only begins when Morris
15 Brooks, after going to other people and using other people,
16 come to him to cash a check because he has apparently
17 the ability to cash a check.

18 Mr. MacBeth made a long statement how Rabbi
19 Rosenblatt lined his pockets. We will prove he received
20 nothing personally for this, that any money received went
21 to the Rabbinical College of Queens and was used for good
22 purposes.

23 We will further prove that the Rabbi didn't ask
24 for 10 per cent or any amount whatsoever, but that Mr.
25 Brooks proffered and was willing to give 10 per cent to

1 bsjb 8

2 the Rabbi, and that since it was going for a charitable
3 purpose the Rabbi accepted.

4 We will prove that Brooks offered far more money
5 to other people to cash checks, and we will prove that the
6 government will ask you, upon the evidence in this case,
7 to accept three absurd stories, not one of which -- not
8 one of which can be decided in accordance with the common
9 sense he asked you to exercise.

10 We will prove that the government will ask you
11 to convict Rabbi Rosenblatt by refusing to accept the
12 simple fact that a man of faith can take somebody on faith.

13 MR. MacBETH: Objection, your Honor. That raises
14 the religious nature of the defendant's position, and under
15 the rules of evidence that is entirely improper.

16 THE COURT: I am just simply telling the jury what
17 I told them earlier, all persons stand equal before the law;
18 it doesn't matter what his or her occupation or station in
19 life may be; that is irrelevant as to what his religion
20 may be or his occupation or station in life.

21 You are to judge this case based solely on the
22 evidence presented in court.

23 MR. GOLDMAN: Now the defense will also prove
24 that for a man engaged in a conspiracy, as Mr. MacBeth
25 would suggest, Rabbi Rosenblatt took great pains to make

1 bsjb 9

2 sure that his name was everywhere. The checks were stamped
3 with Rabbinical College. The Rabbi was at the bank in
4 front of people who knew him and had known him for many
5 years, and that everything he did was open and notorious.
6 When I say notorious, not in the sense of infamous, but
7 openly, hiding nothing.

8 You will find that that is inconsistent with the
9 idea of a conspiracy with Morris Brooks.

10 We will demonstrate to you that in fact Morris
11 Brooks did steal these checks, and in fact the government
12 will do it far before we get to that point, and we will
13 prove to you that when Morris Brooks was caught, Morris
14 Brooks didn't implicate the Rabbi, in fact he said he had
15 done it all. When he learned what sentence he may receive
16 for his criminal acts, and he may get leniency, and that
17 sentence may be reduced if he could name a body and present
18 him to the government, he then said, "Oh, yes, Rabbi
19 Rosenblatt knew about these people." Non-existent people,
20 non-existent tax evasion, impossible of commission, but
21 Morris Brooks was willing to lie, as we will demonstrate
22 to you.

23 Therefore, I ask only -- I ask only, as I know
24 you will, that you abide by the very simple question that
25 was put to all of you, that you be fair and impartial, that

1 bsjb 10

2 you don't arrive at a decision until you hear all of the
3 evidence and both sides of the story, and having done that,
4 I feel satisfied that our privilege and our duty will
5 rise to a greater degree than that of prosecution, and
6 that is of acquitting an innocent man of a wrongful
7 charge made against him.

8 Thank you very much.

9 THE COURT: Thank you, Mr. Goldman.

10 Ladies and gentlemen, we are going to recess
11 now until 9:30 tomorrow morning.

12 Ladies and gentlemen, no juror is permitted to
13 be late coming to court, so you should leave home in time
14 to be in the jury room before 9:30, so that when the
15 clerk goes in there to bring you in, you see, all the
16 jurors will be present.

17 You are excused now until 9:30 tomorrow morning.
18 Please arrive before 9:30. Thank you.

19 (Jury excused.)

20 THE COURT: All right, gentlemen, you are excused
21 until 9:30 tomorrow morning.

22 (Whereupon, the trial was adjourned to August 11,
23 1976, at 9:30 a.m.)

24 ***
25

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2 UNITED STATES OF AMERICA

3 V.

76 Cr. 142

4 ELYAKIM G. ROSENBLATT

5
6 August 11, 1976
7 9:30 a.m.

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9 oOo

10 TIA.AM

(Trial resumed.)

11 (In open court, jury present.)

12 MR. MacBETH: May we approach the bench, your
13 Honor.

14 (At the side bar.)

15 MR. MacBETH: We have some disagreement about
16 a stipulation, your Honor. This typed part was read to
17 you and agreed to between Mr. Goldman and me yesterday.
18 Mr. Goldman asked me to add something we originally drafted.
19 We were doing this while the court was in session. That
20 was the draft. I agreed to that.

21 In thinking about it, I thought this was more
22 appropriate language and presented that to Mr. Goldman
23 this morning and he is not in agreement with that.

24 THE COURT: Just one moment. What do you say?
25

1 jpjb

2 MR. GOLDMAN: Your Honor, yesterday, I offered
3 to make the stipulations which I did to save some time.
4 We also discussed this. This is Mr. MacBeth's writing.
5 He wrote it out and we agreed to it. I opened to the
6 jury on that stipulation and this morning he comes in and
7 changes it from the critical place that Rabbi Rosenblatt
8 knew and was told that.

9 In this one the government makes no contention
10 that he knew these checks were stolen. Here he infers
11 that he wasn't told but maybe he knew some other way. He
12 let me open to the jury on this stipulation and says he
13 agreed to it and now wants to change it.

14 THE COURT: Well, what do you say?

15 MR. MacBETH: I do agree with it. As I was
16 analyzing it later on, I thought this language was better.
17 And it is more accurate.

18 MR. GOLDMAN: It is substantially different.

19 THE COURT: I gather we have no stipulation, is
20 that it? If the parties can't agree then I don't know
21 how we can stipulate.

22 MR. GOLDMAN: Mr. MacBeth admits he agreed to
23 this language. I opened to the jury on it and I think he
24 should be held to it.

25 THE COURT: It is a very substantial difference

1 jpjb

2 to be "knowing." Knowledge can be inferred from the facts
3 and circumstances. It certainly is different from what
4 he was told. It is certainly a different legal situation.

5 MR. MacBETH: I think that under those circum-
6 stances, I am honor-bound to concede the point to Mr.
7 Goldman.

8 MR. GOLDMAN: Thank you very much.

9 MR. MacBETH: I will be much more careful. I
10 did agree to it and I'm bound by it.

11 (In open court.)

12 MR. COOPER: May we just briefly come up?

13 (At the side bar.)

14 MR. COOPER: Your Honor, I believe, and I can
15 be corrected if I am wrong, Mr. Hardoon's attorney is
16 presently seated back in the courtroom. We have no ob-
17 jection to her remaining here during Mr. Brooks' testimony
18 but I would like to have it made clear to her, of course,
19 whatever Mr. Brooks says should not be transmitted to
20 Mr. Hardoon before he testifies.

21 MR. MacBETH: I believe his attorney is here.

22 THE COURT: Do you want to tell her that before
23 we start?

24 MR. MacBETH: Can we call her up?

25 THE COURT: It would be better if you just go

1 jpjb

2 back and tell her.

3 (In open court.)

4 MR. MacBETH: May I proceed, your Honor?

5 THE COURT: Ladies and gentlemen, as you know,
6 last evening the trial commenced with opening statements
7 by the government's counsel and defense counsel. At
8 this time, the trial will continue with the presentation
9 of the government's evidence.

10 Mr. MacBeth, are you ready to call your first
11 witness?

12 MR. MacBETH: I am, your Honor. Before that, I
13 would like to read a stipulation into the record that has
14 been agreed to between the parties.

15 THE COURT: Ladies and gentlemen, you recall
16 yesterday in my preliminary instructions to you I told
17 you that the evidence in this case would consist of the
18 testimony of the witnesses who would take the witness
19 stand right here before you; that it would also consist
20 of any exhibits actually received into evidence; and,
21 thirdly, the evidence in this case would consist of any
22 stipulations as to certain facts which the lawyers might
23 enter into.

24 Now, Mr. MacBeth is about to read to you a stipu-
25 lation which he has entered into with defense counsel in

1 jpjb

2 this case. All right, you may proceed, Mr. MacBeth.

3 MR. MacBETH: It is stipulated and agreed by and
4 between Elyakim Rosenblatt, the defendant, and his counsel
5 Robert Goldman and Robert B. Fiske, United States Attorney
6 of the Southern District of New York and Angus MacBeth
7 that between July 1974 and August 1975, Morris D. Brooks
8 embezzled, stole and by fraud and deception obtained from
9 the mail the following checks drawn on the Treasurer of
10 the United States and they are listed by date, payee and
11 amount:

12 July 11, 1974, Sara Dudley Brown, \$4,500; July
13 11, 1974, Gloria G. Brown, \$5,500; October 24, 1974, James
14 K. Sullivan, \$9,700.35; December 30, 1974, H. L. Dalis;
15 \$27,204.95; March 17, 1974, H. L. Dalis, \$32,000; April
16 28, 1975 -- excuse me, the March 17th should be 1975 rather
17 than 1974 -- April 28, 1975, H. L. Dalis, \$24,600; July
18 14, 1975, H. L. Dalis, \$38,500; July 28, 1975, Frank B.
19 Conley, \$42,500.

20 Morris Brooks obtained these checks by making
21 false entries in the books of the Postal Service namely
22 on Postal Service forms 1951. Brooks made these false
23 entries by working in the accounts payable section in the
24 accounts payable section in the Postal Data Center located
25 at the General Post Office on 33rd Street and Eighth

jpjb

Avenue in Manhattan. The false entries made by Brooks resulted in the printing of the checks which were made payable to parties who had no claim against the Postal Service for such payment. Brooks obtained these by removing them physically from the Postal Service or having them sent to his home address.

The government does not contend that Elyakim Rosenblatt knew that Brooks had made false entries on Postal Service books or that Morris Brooks had stolen these eight checks from the Postal Service.

That completes the stipulation, your Honor.

THE COURT: You may call your first witness.

MR. MacBETH: The government calls Morris Brooks.

M O R R I S D. B R O O K S, called as a witness by the government, after being first duly sworn, testified as follows:

THE COURT: Mr. Brooks, before we proceed, would you please throw your voice so the very last juror can hear you.

DIRECT EXAMINATION

BY MR. MacBETH:

Q Mr. Brooks, were you charged with theft from the Postal Service in indictment 76 Cr. 143 in this court?

1 jpjb Brooks - direct

2 A Yes.

3 Q What were you charged with stealing from the

4 Post Office in that indictment?

5 A I was charged with stealing \$230,000 in checks.

6 Q How did you plead to that indictment?

7 A I pleaded guilty.

8 Q Have you been sentenced on that plea?

9 A No.

10 Q Who is the judge that will sentence you on that

11 plea?

12 A Judge Gagliardi.

13 Q Were you charged in the indictment in this case?

14 A Yes.

15 Q What were you charged with?

16 A Making false entries and conspiracy to defraud

17 the government.

18 Q Have you entered a plea in this case?

19 A Yes.

20 Q What was that plea?

21 A Guilty.

22 Q To how many counts?

23 A Two counts.

24 Q What were those counts?

25 A Making false entries and conspiracy to defraud

1 jpjb

Brooks - direct

2 the government.

3 THE COURT: Just a minute. I'm having difficulty
4 hearing you.

5 A Making false entries and conspiracy to defraud
6 the government.

7 Q Have you been sentenced on that plea of guilty?

8 A No.

9 Q Who is the judge who will sentence you on that
10 plea?

11 A Judge Motley.

12 Q Has the government made you any promise in re-
13 turn for your testimony here today?

14 A No. They only said they will tell the sentencing
15 judge that I cooperated with the government.

16 Q Has there been any promise as to what your sen-
17 tence would be in any way at all?

18 A No.

19 Q Mr. Brooks, how were you employed in 1974 and
20 1975?

21 A I was employed with the U.S. Government, U.S.
22 Postal Service.

23 Q What section of the Postal Service did you work
24 in?

25 A I was employed at the Postal Data Center on 33rd

1 jpjb

Brooks - direct

2 Street and Eighth Avenue and I worked in the accounts pay-
3 able section.

4 Q What were your duties and responsibilities in
5 that section?

6 A I was to see that we got bills from vendors and
7 I would see that bills got paid, vendors who had contracts
8 with the government. I also supervised other people
9 making payments to vendors who had contracts with the
10 government.

11 Q Turning your attention now to July 1974, did
12 there come a time when you made false entries on a Postal
13 Service form, 1951?

14 A Yes.

15 Q As a result of those false entries, did you
16 obtain two checks?

17 A Yes, I obtained two checks.

18 Q Mr. Brooks, I show you what have been marked
19 Government's Exhibits 8 and 9 for identification. Can
20 you identify those exhibits?

21 A Yes.

22 Q What are they?

23 A They are two checks; one is made out for 5,500
24 and one is for 4,500.

25 Q Tell us which one is Exhibit 8 for identification.

1 jpjb

Brooks - direct

2 A Exhibit 8 was Sara Dudley Brown for \$4,500.

3 Q Exhibit 9?

4 A Gloria G. Brown for \$5,500.

5 Q How can you identify those checks?

6 A By the endorsement on the back. I recognize
7 my handwriting, I endorsed the checks and then I see the
8 Ely G. Rosenblatt and I recognize that.

9 Q As to the endorsement on the back, is that in
10 your own name or another name?

11 A Another name.

12 Q But you made that endorsement?

13 A Yes, sir.

14 MR. MacBETH: Your Honor, the government offers
15 8 and 9 in evidence.

16 THE COURT: Any objection to 8 or 9?

17 MR. GOLDMAN: There is no objection, your Honor,
18 if I may just take a look at them.

19 No objection.

20 XXX (Government's Exhibits 8 and 9 received in evi-
21 dence.)

22 Q Mr. Brooks, where did those two checks come into
23 your poss

24 A They came into my possession in the Post Office,
25 where I work.

jpjb

Brooks - direct

Q What did you do after they came into your possession?

A I went to Mr. David Hardoon and I told him I had two checks that I made a loan from some woman, these two women.

Q Where was it that that took place?

A That took place near where I live.

Q Where is that?

A 8326 Lefraks Boulevard, Kew Gardens, Queens.

Q Did you have a conversation with Mr. Hardoon at that time?

A Yes, I asked him if he would cash these checks for me, I made a loan from these two women and if he could cash these two checks for me.

He said no, first of all, he doesn't have that kind of money and he wouldn't cash the checks. At that time I told him I think I will call up Rabbi Rosenblatt and ask him if he would cash these checks for me.

I called up Rabbi Rosenblatt Friday morning and I told him I have two checks.

(Continued on next page.)

jpe 1

Brooks - direct

33

Q Wait a moment. When you say that Friday morning, could you tell the jury what month and what day that was?

A Well, I got the check, I think July 11 as I noticed on the check Thursday night, the checks are dated, I think the 12th. I took it home with me Thursday night so, I got it in my possession on Friday, July 12th. I called up -- as we went back, I called up Rabbi Rosenblatt and I told him I had two checks and if he would cash them for me. Rabbi Rosenblatt said you know, I won't cash checks just like that. I told him I got two Government checks.

He said he wanted some kind of service, some kind of money for it. First of all, he said he will ask his accountant if it was okay.

Q Do you see Rabbi Rosenblatt in the courtroom today?

A Yes.

Q Would you point him out to the jury?

A Yes, seated over there (pointing).

Q There are three people.

A The one in the middle, the one in the center.

Q How long have you known Rabbi Rosenblatt?

A I knew him, I used to go to school with him, I knew him quite a number of years.

1 jpe 2

Brooks - direct

2 Q Where was it you went to school with him?

3 A Cleveland, Ohio.

4 Q What happened following that conversation
5 that you had with Mr. Rosenblatt on the phone?

6 A Well, I called him again Sunday and I told
7 him I still got the checks and he said, okay, bring them
8 down.

9 I asked Mr. Hardoon to drive me down to his
10 office in Briarwood.

11 Q Did he in fact drive you to Briarwood?

12 A Yes, he drove me down.

13 Q Where was it in Briarwood that he drove you?

14 A Grand Central Parkway, in his school, his office.

15 Q When you say his school or his office, you are
16 referring to Mr. Rosenblatt?

17 A Mr. Rosenblatt, yes.

18 Q What happened when you arrived there?

19 A I went in. I don't recall if Mr. Hardoon came
20 in with me or not. I showed him the checks.

21 Q When you say -- let's make this clear to the jury.
22 When you say you showed him the checks, who is
23 the him you are referring to?

24 A I showed Rosenblatt the checks and I showed him
25 the checks. He asked me where did I get these checks.

1 jpe 3 Brooks - direct

2 Q What did you tell him?

3 A I told him I got it. He said who gave it to
4 you. I said the person does not want to pay any taxes. I
5 didn't want to say a loan.

6 Q Tell the jury what it is you said.

7 A I said to him the person don't want to put it
8 through their account because they don't want to pay any
9 taxes.

10 Q What did he say to you?

11 A Nothing. He just said that he would like to,
12 you know -- we were hemming and hawing, he wanted 10 percent
13 and I wanted to give him less. I think on these two checks
14 we arrived at a little bit less.

15 Q What happened following that conversation?

16 A Well, he endorsed the checks and I left it
17 with him and I told him I'll call him up and find out.

18 Q Did he endorse the checks in your presence?

19 A These two checks, I think he did. I don't
20 recall. Actually I really don't remember on these two
21 checks.

22 Q What happened after you left; the end of that
23 conversation?

24 A I left and went home. I called him back and
25 around a couple of days later and he said, the money, you

jpe 4

Brooks - direct

got the money and I think at that time he gave the money, he put it in an envelope. I told him to give it to Mr. Hardoon in an envelope and give it to me.

Q Mr. Hardoon you are referring to is David Hardoon?

A David Hardoon. And less ten percent.

Q Did you then receive the money?

A Yes.

Q What form was it when you received it?

A In cash, \$100 bills, \$20 bills. Mostly large bills in cash.

Q How much was the total that you received, do you remember?

A I remember I received around \$9,000. maybe 200 or something like that.

Q Mr. Brooks, I show you what's been marked as Government's Exhibit 10 for identification. (Handing.)

A Yes.

Q Do you recognize that?

A Yes.

Q What is it?

A It is a check made out to James K. Sullivan and this is an ID 10. This is one of the checks I obtained by making false entries.

Q In the Post Office?

1 jpe 5 Brooks - direct

2 A \$9,704.35, dated October.

3 Q How can you identify that?

4 A Well, by, I signed it in the back and then I
5 see the endorsement of the Rabbinical College of Queens.

6 Q Approximately when did you obtain that check?

7 A I obtained it approximately Thursday night, I
8 assume. Thursday night and I got it on Friday.

9 Q The day and the month?

10 A October 24th, '74.

11 Q What did you do when you obtained that check?

12 A I called up Rabbi Rosenblatt and I told him
13 I have another check. If he would cash it for me. He
14 said, okay. I brought it down to him, I think it was
15 a Monday and I brought it --

16 Q Where was it that you went?

17 A I asked Mr. Hardoon to drive me down. He drove
18 me down to Briarwood Queens where it is Rosenblatt's
19 residence. I went into his office and I showed him the
20 check.

21 Q Did you have a conversation at that time?

22 A Yes. He asked me, you know, like, he was curious
23 where do you get these checks?

24 I said this person had like a contract with the
25 Government and he's getting like a kickback or something.

1 jpe 6 Brooks - direct

2 So he doesn't want to put it through his account. That's
3 why he's giving it to me. I'm getting something for it and
4 the Rabbi wanted ten percent.

5 Q What did you say to him?

6 A I said, okay. I gave him the check and he
7 stamped it. He asked me should I put it through the per-
8 sonal account or the Rabbinical account. I said the
9 Rabbinical account would be all right and he stamped it
10 and I left him the check.

11 Q Did you talk to Mr. Rosenblatt again after
12 that?

13 A Yes. I called him up and asked him when the
14 money was ready and he told me the money was ready around,
15 you know, it was Wednesday or Thursday and --

16 Q This is Wednesday or Thursday --

17 A The following week after October 24th. He
18 told me that the bank does not have that much cash and I
19 think he gave me around three thousand dollars in cash and
20 he gave me a \$6,000 check, personal check made out to me
21 and later on I gave it back to him, the personal check to cash
22 it, to give me back the \$6,000.

23 Q How much money did you --

24 A He took ten percent. I got back 9,000.

25 Actually, a little less, 9,704, I got the exact amount of

1 jpe 7 Brooks - direct

2 money that he took after the ten percent.

3 Q You received the face value of the check less
4 ten percent, is that correct?

5 A Yes. In other words he gave me cash plus a
6 \$6,000 check which totaled less than -- the face value less
7 than 10 percent.

8 MR. MacBETH: The Government offers Government's
9 10 in evidence, your Honor.

10 THE COURT: Any objection?

11 MR. GOLDMAN: No objection, your Honor.

xx 12 (Government's Exhibit 10 received in evidence.)

13 Q Mr. Brooks, I show you what has been marked
14 Government's Exhibit 11 for identification, do you recognize
15 that?

16 A Yes.

17 Q How do you recognize it?

18 A I recognize it by the endorsement in the back
19 that I endorsed this person's check and the stamp of the
20 Rabbinical College of Queens.

21 Q Now, you actually wrote the endorsement, is
22 that correct?

23 A Yes.

24 Q How did the second endorsement come about?

25 A It was a stamp, Rabbinical College of Queens.

1 jpe 8 Brooks - direct

2 Q How did you obtain that check?

3 A The same way I obtained the others. I obtained
4 it from the Post Office.

5 Q Approximately when did you obtain it?

6 A Approximately at the end of December, it says
7 December 30th, '74. I probably got it on January 2nd or
8 3rd, I probably pulled it out on that day.

9 Q What did you do with the check once you obtained
10 it from the Post Office?

11 A I called up Rosenblatt and I told him I had
12 another check for him.

13 Q What did he say to you?

14 A He said okay, bring it down. I think on
15 this check I went to work and I think I put it in an envelope
16 and I gave it to Mr. Hardoon to take it down with him, to
17 deliver it to Mr. -- Rabbi Rosenblatt.

18 Q Did you have a further conversation with Mr.
19 Rosenblatt after that?

20 A Yes. I called him up and asked him if he
21 deposited the check and he said yes, I have the check and
22 I deposited it and I asked him to let me know when the
23 money would be ready. I think I called him toward the
24 end of the week or the next day -- the following week on
25 Monday, whenever he thought the checks would go through. I

1 je 9 Brooks - direct

2 went to his house in the morning when he said the money
3 was ready and he wanted me to go to the bank with him to
4 get the money out. It was a large amount of cash.

5 Q Did you go to the bank with him?

6 A Before I went to the bank with him. I went to
7 his house and I sat down there and he asked me what about
8 these checks. I said these persons don't want to pay these
9 taxes and that's why he does not want to put it through his
10 account.

11 I went to the bank with him and he said he wants
12 to take me to the bank. So I said to him --

13 Q What bank?

14 A The Chase Manhattan Bank in Kew Gardens near my
15 neighborhood that's probably where he does his dealings.

16 I said what are you going to tell Mr. Rankel.
17 He said, don't worry, I'll introduce you. How am I going
18 to get so much cash from him. It will look funny, me going
19 in.

20 Don't worry, I'll tell him you made a loan to
21 the school and I'm repaying the loan.

22 Q Who is Mr. Rankel you are referring to in that
23 conversation?

24 A He was the bank manager in the bank.

25 Q Did you in fact go with Mr. Rosenblatt to the

1 jpe 10

Brooks - direct

2 bank?

3 A Yes.

4 Q What happened when you went to the bank?

5 A When I went into the bank, I was standing there
6 and we went into -- we had to wait because Mr. Rankel was
7 not ready. As I was waiting, Rabbi Rosenblatt said to
8 me, how come you have Hardoon bring down these checks,
9 why does he bring you down the stuff. Whenever you get
10 another check, don't tell him anything. Just call me
11 direct and we don't even have to tell Mr. Hardoon anything.
12 That's while we were waiting for Mr. Rankel. Then we went
13 over, he said, I asked Mr. Rankel I want to cash a check
14 so much and get that much cash.

15 MR. MAC BETH: Government offers Government's
16 11 in evidence.

17 MR. GOLDMAN: No objection, your Honor.

xx

18 (Government's Exhibit 11 received in evidence.)

19 THE COURT: May I see that for a moment.

20 Q Now, Mr. Brooks, you have Government's Exhibit
21 12 for identification in front of you, is that correct?

22 A Yes.

23 Q Can you identify that?

24 A Yes.

25 Q What is it?

A It is a check made out to me from Rosenblatt

1 jpe 11 Brooks - direct

2 for \$24,200.

3 Q How can you identify it?

4 A It is made out to me and then I endorsed it in
5 the back and it says Rabbi Rosenblatt and Rosenblatt endorsed
6 it and then I endorsed it again.

7 Q You recognize your own signature?

8 A Yes.

9 Q Did you in fact see Mr. Rosenblatt endorse it
10 as well?

11 A Yes.

12 Q Approximately when did that check come into
13 your possession?

14 A January 6, 1975.

15 We brought it out just before we went into the
16 bank or maybe at the bank. We went to see Mr. Rankel and
17 he wrote out this check in front of Mr. Rankel.

18 He wrote this check but I remember he endorsed
19 it in front of Mr. Rankel. I endorsed and he endorsed it
20 and I endorsed it again.

21 Q Did you have any conversation with him at that
22 time?

23 A No, Mr. Rankel -- at that time Mr. Rankel cashed
24 the check for \$24,200. We went into the bank.

25 Q Where was it that you went into the bank?

1 jpe 12

Brooks - direct

2 A In the back of the conference room or near the
3 safe deposit room and he counted out the money to me in
4 \$100 bills.

5 Q Who was it that went into the back room, the
6 conference room?

7 A Mr. Rankel, myself and Rosenblatt.
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Brooks - direct

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Q And who is it that counted out the money?

3

A What?

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Q Who is it that counted out the money. You said

5

he counted out the money.

6

A Mr. Rankel counted out the money.

7

Q How much of the money did you obtain?

8

A I obtained \$24,200, which is less than the

9

check, 10 percent less. The face value of the check was

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around 27,000 something.

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MR. MAC BETH: The Government offers Govern-

12

ment's Exhibit 12.

13

MR. GOLDMAN: No objection, your Honor.

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(Government's Exhibit 12 received in evidence.)

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BY MR. MAC BETH:

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Q Mr. Brooks, I show you what has been marked

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Government's Exhibit 13 for identification.

18

A Yes.

19

Q Can you identify that?

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A Yes. This is a check dated March 17, '75 for

21

\$32,000, and I see the endorsement in the back that I

22

endorsed, and the Rabbinical College of Queens stamped. I

23

obtained the check through the Post Office --

24

Q Approximately when did you obtain the check?

25

A Around March 18 or 19, or maybe that day. You

bse 2

Brooks - direct

know, I don't remember exactly how I obtained it -- sometimes the checks are dated later or before.

Q This is by the same method that you had obtained the other checks?

A Yes.

Q Who is that check made out to.

A H. L. Dalis, Long Island City.

Q Did you ever have any conversations with Mr. Rosenblatt about H. L. Dalis?

A Yes. Well, I told him about the check, I got another check --

Q Just answer the question.

Did you have conversations with him about H. L. Dalis?

A Yes.

Q How was it that he pronounced that name?

A He used to say Dali, he used to say. He used to say "You got any more checks from Dali?"

Q When you obtained that check what did you do with it?

A I called up Rabbi Rosenblatt, I told him I had another check and I brought it down to him and I went to his office -- I brought it down to him in Rosenblatt's office at Briarwood, and he endorsed the check and he made out a

1 bse 3 Brooks - direct

2 deposit slip. I think at this time he asked me to go to
3 the bank and deposit it in his account. I went myself to
4 deposit the check.

5 Q When you say "endorsed it" there are two
6 endorsements there, which one did he put on?

7 A The Rabbinical College of Queens endorsement.

8 Q The earlier one for the payee is the one that you
9 had put on previously?

10 A Right.

11 Q Did you in fact deposit that check?

12 A Yes.

13 Q What happened after that?

14 A After that I called him up a couple of days
15 later and I tell him to make a -- I make an appointment
16 with him when to go to the bank to take the money out.

17 Q What happened following that conversation?

18 A Well, I went down, I met him at his office.
19 He drove me down to the bank and he made out another check
20 in my name, I think for -- at that time he made it out
21 for I think \$31,000, but he says he doesn't always want to
22 show that he's taking ten percent. He made it out for a
23 little different amount of money.

24 Q How much is that check for?

25 A \$32,000.

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Brooks - direct

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Q So that the 31,000 check that he made out to you was for more than 90 percent, is that correct?

A Right.

Q Did you receive the entire 31,000?

A Well, Mr. Rankel gave it to me and I gave him the balance of the ten percent. I didn't receive all the money because I gave the balance --

Q Again, be careful to explain all this fully. When you say you gave "him" the balance of the 10 percent, to whom are you referring?

A Rosenblatt.

Q Where did that take place?

A After I got the money, I went out to his car --

Q Where was it --

A At the bank, I went out at the bank, the Chase Manhattan Bank in Kew Gardens --

Q Where in the bank did you receive the check?

A In the back room. I walked out with him. We went to his car. I sat in Rosenblatt's car and I gave him the rest of the balance of the 10 percent. I gave to him what was coming to him and I left and he left.

MR. MAC BETH: The Government offers Government's 13 in evidence.

MR. GOLDMAN: No objection, your Honor.

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Brooks - direct

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(Government's Exhibit 13 received in evidence.)

BY MR. MAC BETH:

Q Now, Mr. Brooks, you have Government's Exhibit 14 for identification in front of you, is that correct?

A Right.

Q Can you identify that?

A Yes. It's a check dated April 28, 1975, made to the order of H. L. Dalis for \$24,600. I look in the back. I endorsed that Dalis, and I see the stamp of the Rabbinical College of Queens.

Q And you made the endorsement on the back?

A Yes.

Q How did you obtain that check, by the same method that you have described?

A The same method that I obtained the other checks.

Q Approximately when did you obtain that check?

A Approximately April 28, 1975.

Q What did you do after you had obtained that check?

A I called up Rosenblatt, I told him I got another one. He says, okay.

Q What did he say to you?

A He says "Okay, bring it down." I brought it down to his office and showed him the check. He endorsed it

1 bse Brooks - direct 50

2 and, you know -- he always used to question me, he used
3 to be curious and he asked me "Who is Mr. Dalis?"

4 I said, "I think he's an electrical company,
5 he has a contract." He says, "Listen, I hope you get me
6 some more. Will this be regularly. Are you getting any
7 more checks from Dali? Get me more checks from Dali, it
8 will be okay."

9 Q What did you say to that?

10 A I said to him that I would get him checks
11 periodically.

12 Q What happened afterthat conversation?

13 A I left the check with him and I left and he
14 probably deposited it, and I said I would call him up at
15 the end of the week.

16 Q Did you call him?

17 A I did call him.

18 Q What was the conversation you had at that time?

19 A I called him up and I said, "Let's make --"
20 to meet him in the morning, to make an appointment to go
21 to the bank.

22 I went to his office. He drove me down to the
23 bank.

24 Well, one morning maybe he didn't drive me down
25 because I lived hear the bank. Briarwood is further away

bse Brooks - direct

from the bank. The bank is in my neighborhood. Maybe I told him I'll meet him at the bank. He met me in front of the bank and we went into the office, saw Mr. Rankel.

Q Excuse me for a moment.

MR. MAC BETH: The Government offers Government's Exhibit 14 into evidence.

MR. GOLDMAN: No objection.

(Government' Exhibit 14 received in evidence.)

BY MR. MAC BETH:

Q Mr. Brooks, you now have Government's Exhibit 14 for identification in front of you.

A Right.

Q Is that correct?

A Yes.

Q Do you recognize that?

A Yes. It's a check made out to me for the full amount of the check.

Q You say for the full amount of the check, what are you referring to?

A I am referring to the Rabbi said to me, you know, it's no good to always leave ten percent off of something. He'll make out the full amount and I should give him the ten percent in cash.

Q This check is for the full amount --

1 bse

Brooks - direct

2 A Of the Dalis check that I just saw.

3 Q Government's Exhibit 14, is that correct?

4 A Right.

5 Q And that's \$24,600?

6 A Correct.

7 Q How can you recollect that check?

8 A Well, I endorsed it in back "Okay to cash.

9 See Rabbi G. Rosenblat" and I endorsed it again.

10 Q When and where did those endorsements take
11 place?12 A It took place in the bank, Chase Manhattan
13 Bank in front of Mr. Rankel.

14 Q Approximately when?

15 A May 2nd, '75.

16 MR. MAC BETH: The Government offers Govern-
17 ments Exhibit 15 in evidence.

18 MR. GOLDMAN: No objection.

xx 19 (Government's Exhibit 15 received in evidence.)

20 BY MR. MAC BETH:

21 Q Mr. Brooks, you now have Government's Exhibits
22 for identification 16, 17 and 18 in front of you, is that
23 correct?

24 A Right.

25 Q Can you identify those exhibits?

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bse Brooks - direct

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A Yes.

Q Take them one at a time and describe to the jury what each one of them is.

A Here's a \$3,000 cashier's check made out to me.

Q I couldn't hear you.

A There is a \$3,000 cashier's check made out to me from the bank, Chase Manhattan Bank for \$3,000, dated May 2nd, '75.

THE COURT: What is the number on that exhibit?

THE WITNESS: 17. Should I go to 16 first?

Q Yes.

A All right. 16 is a check made out for \$1,100, a cashier's check, Chase Manhattan Bank and Mr. Rankel signed it.

Q Who is that one made out to?

A Morris Brooks. ID 17, is 3,000 made out to Morris Brooks, cashiers check signed by Mr. Rankel from the Chase Manhattan Bank.

And ID 18 is a check made out to me, Morris Brooks, for \$8,500.

Q Can you identify them further by your signature on them any place?

A Yes. My signature in the back. Two checks are made out with my signature and account number that I deposited

bse Brooks - direct

the checks to, and one is E. G. Rosenblatt.

Q Take the two that bear your signature. What are the identification numbers of those checks?

A 16 and 17.

Q When did those checks come into your possession?

A It came into my possession -- now that you show me these three checks, there was a time when the \$24,600 check that he wrote out to the bank -- we would talk to Mr. Rankel to say maybe take some money in cashier's check, it's too much money to take out at one time, so he made out -- I took three checks, I took cash, I took a check for \$8,500 and one check for 3,000 and one check for \$1,100. And I think the other balances he made out -- the balance of 12,000 in cash I got.

Q So that you received cash and --

A I got 12,000 cash plus these three checks.

Q And when you had received the full amount of the \$24,600 check, what did you do?

A I left the bank and I went into Rabbi Rosenblatt's car and I gave him his 10 percent and I held on to these checks.

Q In what form did you give him the 10 percent?

A In cash. His 10 percent I gave him in cash.

Q What did you do with the three checks?

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Brooks - direct

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2 A Well, one check I gave him back so he should
3 cash it for me, the 8,500, I gave it back to Rabbi Rosen-
4 blatt to cash it for me, a different date --

5 Q You went to --

6 THE COURT: Mr. MacBeth, please try not to
7 talk when the witness is talking. Let the witness finish.

8 Q Could you give again the identification number
9 for the \$8,500 check?

10 A ID 18. \$8,500. I gave it back to Rabbi Rosen-
11 blatt to get me the cash.

12 Q What did you do with the other two checks?

13 A The other two checks I opened up a checking
14 account and -- in Forest Hills, a little further from .
15 my neighborhood, Bank L'Eumi, L-'-E-u-m-i, I think, L'Eumi.

16 Q Turning your attention to the \$8,500 check that
17 you gave to Mr. Rosenblatt, did you have any further dis-
18 cussions with him about that?

19 A Well, he just gave me the cash.

20 Q When did he give you the cash from the check?

21 A Around the end of May 5, it says here May 5,
22 cashed May 5.

23 A couple of days later.

24 MR. MAC BETH: The Government of. ers 16, 17 and 18
25 into evidence.

1 bse

Brooks - direct

2 MR. GOLDMAN: No objection.

3 (Government's Exhibits 16, 17 and 18 received
4 in evidence.)

5 BY MR. MAC BETH:

6 Q Mr. Brooks, I show you what has been marked
7 Government's Exhibit 19 for identification.

8 Can you identify that?

9 A Yes. This is a check made out to Frank P.
10 Conley for 41,500.

11 Q Can you further identify it?

12 A Yes. I endorsed it in the back and I see an
13 endorsement saying Rabbinical College of Queens written
14 out.

15 Q When did that check come into your possession?

16 A In July 28, end of July.

17 Q Did you obtain it by the same method that you
18 previously described?

19 A Yes.

20 Q What did you do when you had received that check?

21 A I called up Rabbi Rosenblatt, I told him I have
22 another check, and I brought it down. He said, "Bring it
23 down". I brought it down to his office.

24 Q Did you have a conversation with him at that
25 time?

1 bse

Brooks - direct

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2 A Yes, he saw Frank P. Conley, he says, what's
3 this, another name? I said, yes. Daly finished, he said,
4 he said, no, no, I got two people now, I got this Frank
5 B. Conley. He said, what does he do, where did you get
6 this check? I told him that he has a contract with the
7 Government, something to do with printing stamps, some kind
8 of printing, and he's getting a kickback and that's why he
9 doesn't want to put it through his account.

10 Q Did you have a further conversation with him
11 at that time?

12 A He asked me if there are any more checks coming.
13 I said there will be some checks coming in October probably,
14 the end of the month, two, three months, because now
15 contracts come out in October.

16 Q What happened after you had given Mr. Rosen-
17 blatt that check?

18 A Well, he probably deposited it. I called him
19 up at the end of the week and asked him if the money is
20 ready and he said to me -- we went to the bank, he said,
21 you know, actually we should -- at that time he said we will
22 break down the money, we will talk to Mr. Rankel. ask him
23 how is the best way to take out the cash. We went into
24 Mr. Rankel's office and Mr. Rankel said, yes, we will make
25 out three checks, four necks, whatever it is, and we will

bse Brooks - direct

split the money up.

MR. MAC BETH: The Government offers Government's Exhibit 19 in evidence.

MR. GOLDMAN: I have no objection.

THE COURT: Government's Exhibit 19 received.

(Government's Exhibit 19 received in evidence.)

BY MR. MAC BETH:

Q Mr. Brooks, you have Government's Exhibit 21 for identification in front of you?

A Yes.

Q Can you identify that?

A Yes. This is a check made out to me for \$17,350. It's endorsed by Rosenblatt and re-endorsed by me.

Q What account is that check on?

A Rabbinical College of Queens.

Q When did you receive that check?

A August 5, '75.

MR. MAC BETH: The Government offers Government's Exhibit 21 in evidence.

MR. GOLDMAN: No objection.

THE COURT: Government's Exhibit 21 received in evidence.

(Government's Exhibit 21 received in evidence.)

1 bse

Brooks - direct

2 BY MR. MAC BETH:

3 Q Mr. Brooks, you have Government's Exhibit 22 for
4 identification in front of you?

5 A Yes.

6 Q Can you identify that?

7 A Yes. It's a check made out to me for \$12,000,
8 endorsed by me and endorsed by Rosenblatt and okay for
9 cash and re-endorsed by me.

10 Q What account is that check on?

11 A Rabbinical College of Queens.

12 Q Approximately when did this check come into
13 your possession?

14 A Well, it all came in -- I endorsed it all at the
15 same day, but I gave it back to the Rabbi to cash at further
16 days at intervals.

17 But he gave it to me at August 5.

18 Q He gave it to you on August 5?

19 A I endorsed it all on August 5. I gave it to him.
20 He held on to it.

21 MR. MAC BETH: The Government offers 22 in evi-
22 dence.

23 MR. GOLDMAN: May I just ask a question. Are
24 these the three checks that the bank officer --

25 MR. MAC BETH: These are the three he received

1 bse Brooks - direct

2 on the same day.

3 MR. GOLDMAN: There is some testimony that the
4 bank officer told him about the check, are these the three?
5 I don't know if those are the checks or different.

6 MR. MAC BETH: That will be brought out in the
7 testimony.

8 THE COURT: Government's Exhibit 22 received.

xx 9 (Governments Exhibit 22 received in evidence.)

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Brooks - direct

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Q Mr. Brooks, you now have Government's Exhibit 23 in front of you?

A Yes.

Q Can you identify that?

A Yes, a check made out to me for \$12,150, endorsed by me and endorsed by Rosenblatt and okayed to cash and re-endorsed by me.

Q When did you obtain that?

A I obtained that at the same day, like I mentioned, August 5th, but I left it with him --

Q Just answer the question. When did you obtain it?

A August 5th.

MR. MacBETH: The government offers 23 in evidence.

MR. GOLDMAN: No objection, your Honor.

THE COURT: All right. Government's Exhibit 23 received.

(Government's Exhibit 23 received in evidence.)

Q Mr. Brooks, you have what has been marked Government's Exhibit 20 for identification in front of you?

A Yes.

Q Can you identify that?

A Yes, a cashier's check made out to me for \$2,350.

1 bsjb 2

Brooks - direct

2 I endorsed it in the back. I think I deposited it to my
3 checking account in the Bank Leumi.

4 Q When did that come into your possession?

5 A August 5, '75.

6 MR. MacBETH: The government offers Government's
7 20 in evidence.

8 MR. GOLDMAN: No objection.

9 THE COURT: Government's 20 received.

10 (Government's Exhibit 20 received in evidence.)

11 Q Now, Mr. Brooks, you have in front of you Govern-
12 ment's Exhibits 20 through 23, is that correct?

13 A Right.

14 Q Now, you testified that Government's Exhibits 21,
15 22 and 23 are personal checks made out to you, is that
16 correct?

17 A Yes.

18 Q They are all in the same bank account and all
19 endorsed in the same manner?

20 A Yes.

21 Q Can you tell the jury the time and place which
22 you obtained all of those checks, and any conversation
23 that took place at that time?

24 A Yes. I was speaking to -- we went to the office,
25 to the bank manager, to Mr. Rankel, and at that time I

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bsjb 3

Brooks - direct

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1 said -- we spoke to the bank manager, I said, do I have
2 to come down to the bank with Rosenblatt every time, so
3 Mr. Rankel said, no, it's okay for me to endorse it, and
4 he endorses it saying okay for cash, and I re-endorse it,
5 and I don't have to come down any more.
6

7 Rosenblatt can come himself to cash it for me
8 and I would meet him in his office to cash the check.

9 Q Was there further conversation at that time about
10 the form of those checks?

11 A Conversations for what?

12 Q Do you recall any further conversations that you
13 had at that point with regard to those three checks?

14 A With regard to these checks, I don't remember.
15 I remember once -- all I remember, one time we went out
16 to his car, after I cashed one of the checks. and I gave
17 him his 10 per cent, and he said he got to go back into
18 the bank.

19 Q You also have in front of you Government's Ex-
20 hibit 20, is that correct?

21 A Yes.

22 Q You obtained that at the same time?

23 A Yes.

24 Q Was there a conversation that you recall at the
25 time you received that check?

1
2 A I received it -- all these three times, I re-
3 ceived it, and -- all he did, he asked me if I'm going
4 to get any more checks, I said the next time I get a
5 check, I don't have to come down to the bank, he would
6 make out a couple of checks, I would endorse it and he
7 would get the money himself.

8 Q Did you have any conversation with Mr. Rankel
9 at the time that you obtained the Government's Exhibit
10 20, the initial check?

11 A 2,350 check?

12 Q Yes.

13 A I don't recall any conversation with Mr. Frankel
14 on this check.

15 Q When did you obtain the -- did you obtain the
16 cash from the three personal checks?

17 A Yes. The one that's dated 17,350 and the 2,350
18 I obtained that day.

19 THE COURT: He said it that way.

20 Q The day that you went into the bank --

21 A Right.

22 Q -- would be, what, on or about August 5th?

23 A Right.

24 Q You obtained the cash from the -- which checks
25 did you obtain that day?

bsjb 5

Brooks - direct

65

1
2 A I obtained a cashier's check for 2,350 plus
3 the 17,350.

4 Q When did you obtain the cash from the other
5 checks?

6 A A couple of days later. Two days later I went
7 to his office.

8 Q When you say you went to his office --

9 A Rosenblatt's office, and two days prior -- after
10 that I went to Rosenblatt's office.

11 Q Did you receive all the money from those checks?

12 A I didn't receive all the money because I gave
13 him 10 per cent on August 5th.

14 Q On August 5th you gave him 10 per cent --

15 A Yes, the first cash I got I gave him 10 per
16 cent.

17 Q That was 10 per cent of the Frank P. Conley
18 check?

19 A 41,500, right.

20 Q Mr. Brooks, do you now have in front of you
21 Government's Exhibit 24 for identification?

22 A Yes.

23 Q Can you state to the jury what that is?

24 A Yes. That's a check to H.L. Dalis for 38,500,
25 dated July 14, '75. This was dated before the Conley

1 bsjb 6

Brooks - direct

2 check. I obtained it later.

3 Q I show you what has been marked Government's
4 Exhibit 24A for identification. Can you identify what
5 that is?

6 A Yes.

7 Q What is it?

8 A This is a form -- when a check is returned to
9 the Post Office saying not at that address, this is that
10 form.

11 Q Did you fill out that form?

12 A Yes. I filled out the form saying "re-mail in
13 attached envelope." This comes from the disbursing
14 office. When the check comes back it comes into the dis-
15 bursing office, and it sends out this form with the
16 envelope, and -- not the check, they keep the check, but
17 they send back the envelope saying "not at this address"
18 or something like that.

19 THE COURT: Disbursing is right.

20 THE WITNESS: I in turn make out another
21 envelope, which at this time I made out to my address,
22 and I wrote "re-mail in attached envelope" and I had a
23 certifying officer sign it, and we gave it back to the
24 disbursing officer and he re-mailed it to my address and
25 I got the check. That's how I obtained the check.

1 bsjb 7

Brooks - direct

2 Q Approximately when did you fill out this office
3 form?

4 A Sometime in August. Here it says "July 17th,"
5 but that's -- I filled it out sometime in August. It
6 says the date mailed --

7 Q Could you speak up?

8 A It says "date mailed, August 12, '75." So I
9 filled it out a day before or so.

10 MR. MacBETH: The government offers 24A.

11 MR. GOLDMAN: No objection.

12 THE COURT: 24A received.

13 (Government's Exhibit 24A received in evidence.)

14 Q Can you tell me approximately when you received
15 Government's Exhibit 24 for identification which you have
16 in front of you?

17 A Approximately around August 14th or so.

18 Q When you had obtained that check, what did you
19 do?

20 A Can I say something? By talking about Mr.
21 Rankel, if I remember, we went into the bank, we used to
22 talk to Mr. Rankel. We used -- we went to Mr. Rankel and
23 we would say this is too much cash to take out at one
24 time, and let's make out these checks separate and take
25 the money a little at a time, because it's too much at

XXX

bsjb 8

Brooks - direct

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one time. I remember saying that to Mr. Ranke.

Q Approximately when did you have this conversation with Mr. Rankel?

A The time we made out the three checks.

Q Which were Government's Exhibits 21, 22 and 23?

A At that time, and I think even once --

Q Could you tell us the conversation that you had at the time that you made out these three checks?

A The conversation was -- maybe it's better to make out cash -- at the time we made out cashier's checks, we had a conversation, you know, it's too much money, how about taking some money in a cashier's check.

At that time I took 8,050 and the 3,000 and 4,000, that's why I took the cashier's check. I had trouble cashing the 3,000 cashier's check and the 1,000 cashier's check.

That's why I opened a new checking account because I couldn't get it cashed. It was hard for me to cash it at a different branch, and I didn't want to go back and cash it at Rankel's branch. That's why I deposited it.

The next time I said I didn't want any more cashier's checks, I just wanted cash. I did get a cashier's

bsjb 9

Brooks - direct

check for 2,000 later on, for 2,350 because I said I could use it, I could deposit in my account and use it to pay bills.

So that little bit I took. The next time I had a conversation with Mr. Rankel and him and asked him what's the best way --

Q When you say "him" --

A Rosenblatt, he had let me ask Mr. Rankel the best way, he said well ask Mr. Rankel the -- what's the best way to take out this money. He said make it out in intervals, make out three checks and we will take it out.

At that time I asked him if I have to come down also. After a while, it was getting monotonous to come down, to take off from work in the morning. I said, why do I have to come down? He said you don't have to, as long as he will endorse it and I'll bring it in.

Q This was the conversation you had about the 5th of August, is that correct?

A Yes. The one at the 5th of August, that was the first with the 3,000, right.

So I obtained this check --

Q Excuse me. Let's return to Government's Exhibit 24 for identification.

1 bsjb 10

Brooks - direct

2 MR. MacBETH: The government offers 24 in evi-
3 dence.

4 MR. GOLDMAN: No objection, your Honor.

5 THE COURT: Government's Exhibit 24 received in
6 evidence.

7 (Government's Exhibit 24 received in evidence.)

8 Q You obtained that check a few days after August
9 12, 1975, is that correct?

10 A Right.

11 Q What did you do when you received that check?

12 A I called up Rosenblatt and told him I got another
13 check.

14 Q Did you endorse the check?

15 A Yes, I endorsed the check.

16 I brought it to Rosenblatt and I see he endorsed
17 it Rabbinical College of Queens.

18 Q Did you have a conversation with him at the time
19 that you brought him the check?

20 A Yes. He asked me -- we were talking about --
21 he said are you going to get any more checks from Dali?
22 I said, yes, yes, we will probably get more in October,
23 because new contracts come in October. He asked me, and
24 I said it will take a couple of months to get some more
25 checks.

bsjb 11

Brooks - direct

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Every once in a blue moon he used to get curious, and he asked me where I got the checks, and I told him taxes, and with Conley I told him kickback, the guy doesn't want to put it through his account because of that.

Q Mr. Brooks, you have before you what has been marked Government's Exhibits 25, 26 and 27 for identification.

Yes.

Q Turning your attention now to 25, can you identify that?

A Yes.

Q What is it?

A It's a check made out to me from Rabbinical College of Queens for \$14,500, endorsed by me and endorsed by Rosenblatt and okay to cash, and endorsed by me again.

Q Turning your attention to 26, can you identify that?

A Yes. A check made out for \$12,000, endorsed by me and Rosenblatt, okay to cash, and endorsed by me again.

Q Turning your attention to 27, can you identify that?

A Yes. \$12,000. The date is very vague.

1 bsjb 12

Brooks - direct

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2 Q Can you describe the --

3 A A check made out to me for \$12,000, endorsed by
4 me and endorsed by Rosenblatt. Okay to cash and then
5 re-endorsed by me.6 Q When did you obtain Government's Exhibits 25,
7 26 and 27 for identification?8 A I went down to Rosenblatt's office in Briarwood
9 and -- I think I made out these checks -- I think it might
10 have been the day after the deposit we made it out or a
11 couple of days later, I made out these checks -- he made
12 out these three checks in his office. I endorsed it, he
13 endorsed it and I endorsed it again and I left it with
14 him and I'll call him up -- I told him, I'll call him up
15 in a couple of days and I'll come down to pick up the cash.16 Q So that all these endorsements were made in
17 Mr. Rosenblatt's office at the time or a few days after
18 you had given him the Dalis check, Government's Exhibit 24?

19 A Yes.

20 MR. MacBETH: The government offers 25, 26 and
21 27 in evidence.

22 MR. GOLDMAN: No objection.

23 THE COURT: Government's Exhibit 25, 26 and 27
24 received.25 (Government's Exhibits 25, 26 and 27 received
in evidence.)

XXX

bsjb 13

Brooks - direct

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1 Q What happened after you left those checks with
2
3 Mr. Rosenblatt?

4 A Well, I called him up in a couple of days and
5 he said he got so much ready, whatever it is, the 12,000
6 or so.

7 I went down to his office in Briarwood, Mr.
8 Rosenblatt's office, and he gave me less 10 per cent the
9 first check, he also took his first.

10 Then a couple of days later I went again, picked
11 up the money and a couple of days later.

12 Q When you say a couple of days later and a couple
13 of days later, are you referring --

14 A I'm referring to like every two days, I went,
15 I called him up, and he says he has cash for me, after
16 work at night, I went over to his office and picked up
17 the cash.

18 Q And he took his 10 per cent out of the first
19 check, is that correct?

20 A Well, the first cash he gave me he took his 10
21 per cent, he gave me less 10 per cent.

22 Q What was the total amount of cash that you re-
23 ceived from him over the course of the next several days?

24 A Well, the first one I got -- three for 12,000.
25 You know, I got to figure it out. Whatever it is, he gave

1 bsjb

Brooks - direct

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2 me -- the total amount altogether is thirty-eight five
3 less the 10 per cent.

4 Q The thirty-eight five you are calculating is
5 from the Dalis check?

6 A The Dalis check was 38,500. He may have taken
7 a little more, you know, the change, he may have got
8 maybe \$100 more or \$200 more or less. We didn't figure
9 everything to the penny.

10 Q Now --

11 A On some of the checks. I don't know about each
12 one. Some of them there was like different amounts of
13 the 10 per cent, he got usually the extra.

14 Q Did there come a time when you stopped going to
15 your job at the Post Office?

16 A Yes.

17 Q When was that, approximately?

18 A Around August 22nd, I think I stopped going.

19 Q Following receipt of the cash that you just
20 described, did you have further conversations with Mr.
21 Rosenblatt?

22 A Yes. At the last time when he gave me the
23 money, the last money he says, "Are there any more coming?"
24 And this was about the end of August, I said, "Maybe in
25 around a month, two months." Then I would get him another

1 bsjb

Brooks - direct

75

2 check or so, because I said new contracts start coming
3 in.

4 One day I was walking in the street and he drove
5 by --

6 Q Approximately when was this?

7 A Approximately in October. Actually, before I
8 met him in the street in October, he called me up in
9 September and says, "What's happening?" I said, "Soon,
10 I'll get another one soon, you know," and two weeks later
11 I was walking in the street, in Kow Gardens, it was near
12 Averton Road, if I remember correctly, he honked the horn,
13 he was there with his kid or something, someone in the
14 car, I don't know, I said how are you doing, he says,
15 Morris, what's happening, any more coming? I said you'll
16 have to wait. It will take another two weeks, I'll get
17 get another one.

18 Since then I didn't get another one.

19 MR. MacBETH: Your Honor, I have no further
20 questions of this witness. I would like at this time to
21 pass the Government's Exhibits to the jury.

22 I have tried not to do that during the testimony
23 so as not to interrupt the flow.

24 THE COURT: That would take sometime, I would
25 think, for the jurors to review all those checks.

1 bsjb

Brooks - direct

2 MR. MacBETH: Would it be possible for them to
3 see them? I think it's important that they have some sense
4 of what the checks show, that you don't get entirely
5 through the verbal testimony of the witness.

6 THE COURT: Suppose you leave that to summation
7 and show the jurors as you go through at that time. It
8 would just take too much time at this juncture to do that.
9 They won't be able to follow it as well if they had been
10 offered at the time of testimony.

11 We are going to recess in this case now for 20
12 minutes.

13 The jury is excused for 20 minutes.

14 Everyone in the courtroom, please remain seated
15 until the jurors have left.

16 (Jury excused.)

17 THE COURT: The witness is excused for 20
18 minutes.

19 Gentlemen, we will recess this case for 20
20 minutes. I have no other matters.

21 (Recess.)

22 (In open court, jury present.)

23 (The witness Brooks resumed the stand.)

24 MR. GOLDMAN: May I proceed, your Honor?

25 THE COURT: Yes. I believe the government had

1 bsjb

Brooks - cross

2 concluded its direct examination. Is that right?

3 MR. MacBETH: That's correct.

4 CROSS EXAMINATION

5 BY MR. GOLDMAN:

6 Q Mr. Brooks, will you tell us the date on which
7 you were arrested, please?

8 A I think it was November 19th.

9 Q Do you remember what day of the week it was?

10 A It was a Tuesday night. A Wednesday night.

11 Q Now, at the time that you were arrested, Novem-
12 ber 19th, prior to that date, had you made any statements
13 to the government with regard to this or any other checks
14 you may have stolen from the Post Office?

15 A To the government?

16 Q Yes.

17 A Nope.

18 Q At the time of your arrest, did you make any
19 statements to the government with regard to these events?

20 A No. They just asked me about the -- no, no
21 kind of statement.

22 (Continued on next page.)

1
2 Q Any kind at all?

3 A No, I said I wanted to speak to a lawyer.

4 Q Prior to that time, is it your testimony that
5 you made no statement to the government about these events
6 at all?

7 A Prior to that time? No.

8 Q When for the first time did you make any state-
9 ment to the government about these events?

10 A When I spoke to my lawyer and I went to see the
11 District Attorney.

12 Q Prior to conferring with a lawyer, you made no
13 statements to the government about these events at all,
14 is that your testimony?

15 A The only statement I made is that they told me
16 the checks that I got were in my handwriting. But I
17 didn't make any kind of statement.

18 Q You have no recollection prior to seeing an
19 attorney of making any statements whatsoever about any
20 of these events, about any of the people who may have been
21 involved in these events?

22 A No, not that I can recollect.

23 Q Do you remember being interviewed at the Jamaica
24 Post Office?

25 A Yes.

jpjb

Brooks - cross

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1
2 Q When was that?

3 A November 19th.

4 Q The date you were arrested?

5 A Yes.

6 Q Who was present at that interview?

7 A Inspector Krusula and some other guy.

8 Q Did you make any statement to Inspector Krusula
9 that night of your arrest or to any of those people about
10 these events?

11 A The only statement I made is that I know the
12 Rabbi and that I got the checks and that's it. I wanted
13 to speak to a lawyer.

14 Q Did you say anything about whether the Rabbi
15 knew anything about these checks or whether he was guilty
16 or innocent of any crimes? Do you remember making any
17 statements along those lines?

18 A I might have made a statement -- I think I might
19 have made a statement saying that the Rabbi didn't know
20 the checks were stolen. I don't remember making it to
21 him or to the District Attorney. I think I didn't make
22 any statement. I think I said I wanted to speak to a
23 lawyer.

24 Q You don't recall making any statement at that
25 time? Do you or don't you?

1 jpjb

Brooks - cross

2 THE COURT: I didn't hear you.

3 Q Do you or do you not remember making any state-
4 ment that night?

5 A I don't remember making any statements. All I
6 think I remember saying was I wanted to speak to a lawyer
7 and I might have said that the Rabbi didn't know the checks
8 were stolen. That's all.

9 After that, I said I wanted to speak to a lawyer.

10 Q What I'm asking you, Mr. Brooks, on November
11 19th did you tell Inspector Krusula that you were fully
12 responsible for these crimes and that any other people
13 were involved were innocent?

14 A I said any people -- all I said, is that I got
15 these checks, they are stolen. Nobody knew they were
16 stolen. I must have said that.

17 Q Did you also say that any other people involved
18 were innocent?

19 A I might have. I might have said that because
20 maybe I didn't want to get anybody in trouble since nobody
21 knew the checks were stolen. I might have said it or I
22 might have not. I don't recall.

23 Q Did you or didn't you?

24 MR. MacBETH: Asked and answered, your Honor.
25 The witness said he didn't recall.

1 jpjb

Brooks - cross

2 Q Do you deny making that statement, Mr. Brooks?

3 MR. MacBETH: Your Honor, that's asked and
4 answered.

5 THE COURT: I'll let him answer it once more.

6 Q Do you deny making that statement to Inspector
7 Krusula that night at the Post Office that any other per-
8 sons involved were innocent?

9 A I can't deny it. All I know, I said I wanted
10 to speak to a lawyer and all I know I said that the Rabbi
11 didn't know the checks were stolen. I didn't say whether
12 he was innocent or what about, I just said the Rabbi didn't
13 know the checks were stolen.

14 I might have said it, I might have not. I don't
15 remember.

16 Q Now, subsequent to that date, when was the next
17 time that you spoke to any government agency or officials?

18 A I think I spoke before I went to the grand jury,
19 I think, in December.

20 Q Do you recall the date?

21 A I know I went to the grand jury on December
22 19th.

23 Q Before you went to the grand jury, did you have
24 any conversations with anybody about your testimony?

25 A I went into the District Attorney's office and

1 jpjb

Brooks - cross

2 I told him the truth. I told him about the checks with
3 the taxes and the Rabbi. That's all I told him.

4 Q How many times did you speak to, I assume you
5 mean the United States Attorney?

6 A Mr. MacBeth, yes.

7 Q Aside from talking to Mr. MacBeth, did you talk
8 to any other persons associated with the government before
9 you testified in the grand jury, aside from the night of
10 November 19th?

11 A I don't remember anything. All I know, maybe
12 with respect to Krusula called me up and said I got to
13 come to the District Attorney. I don't remember speaking
14 to any government about the case.

15 Q Did you speak to Mr. MacBeth before you testified
16 in the grand jury about the case itself?

17 A I told him, the District Attorney, what happened,
18 you know, with the taxes and he took me and asked me to
19 go before the grand jury. That's all.

20 Q How many times before you testified before the
21 grand jury did you talk to Mr. MacBeth about the case?

22 A I don't remember.

23 MR. MacBETH: Asked and answered.

24 MR. GOLDMAN: I think he answered as to the
25 number of times.

jpjb

Brooks - cross

THE COURT: I'll let him answer.

Q How many times do you recall talking to Mr. MacBeth before you testified in the grand jury?

A Just the one time, I think before I had to go. I don't remember any other time. The first time before I had to go to the grand jury.

Q How long did that interview last?

A A couple of minutes, a couple of seconds to tell him about the taxes and then we went into the grand jury and he asked me these questions and that's it.

Q Did Mr. MacBeth make any notes while you were talking to him?

A I don't recall.

Q When you testified in the grand jury, did you testify in the grand jury that the Rabbi demanded 10 per cent from you?

A I testified that I gave him 10 per cent.

Q You were under oath in the grand jury, were you not?

A Right.

Q You were telling the truth at that time?

A Yes.

Q Did you say one word in the grand jury about the Rabbi demanding 10 per cent from you?

jpjb

Brooks - cross

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A I don't remember if I said that kind of word, demanding, I really wouldn't remember if I said that word, demanding.

Q How about "I offered him 10 per cent," do you recall saying that?

A All I can recall is when I called him up -- I don't exactly.

Q I'm asking you about your testimony in the grand jury, Mr. Brooks, and I'm asking you to recall your testimony in the grand jury.

Do you recall testifying in the grand jury about the Rabbi demanding 10 per cent for you? Do you have a recollection of that?

A I might have said offered, demanding, I don't remember which way I said it. I really wouldn't remember.

Q Let me see if I can refresh your recollection.

Do you recall testifying before the grand jury on December 19, 1975?

A Yes, on a Friday, December 19th.

Q What?

A On a Friday, Friday, December 19th.

Q Do you recall being asked this question and making this answer:

"Q Explain to the grand jury what happened at the

jpjb

Brooks - cross

time in July when you obtained the first two checks payable to Sara Brown and Gloria Brown?

"A When I obtained these checks, I endorsed it and I asked Rabbi Rosenblatt if he could cash these checks for me. I told him a story that the people didn't want to pay tax on it. I didn't tell him it was a forged check. I told him I would give him 10 per cent to cash it for me."

Do you remember testifying to that?

A I might have said it that way. Yes, but he called me and he said he doesn't do anything for nothing. He said he doesn't want to cash the checks for nothing. He wanted 10 per cent.

Q You never testified to that before the grand jury?

A I might have said it in the grand jury in that kind of language.

Q Did you testify in the grand jury that you ever told the Rabbi anything at all about people and kickbacks? Did you ever mention that at all at any time in your testimony before the grand jury?

A I don't know if I said it in front of the grand jury. I might have told it to the District Attorney. I might have said it in front of the grand jury. I think I told the grand jury it was kickbacks and other different

jpjb

Brooks - cross

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1 reasons. I used to give him all kinds of reasons.

2
3 Q You have a recollection as you sit there today
4 testifying in the grand jury that you ever mentioned to
5 Rabbi Rosenblatt about kickbacks?

6 A I don't know if I testified that to the grand
7 jury but I know I recollect I was telling him these kind
8 of things. I don't know if I told it to the grand jur-
9 or if I told it to the District Attorney.

10 MR. MacBETH: I object to this line of ques-
11 tioning. This is improper use of the grand jury testimony.
12 We will never get any consistency of the statements the
13 witness has made and the testimony that's been established.
14 The question is not what Mr. Brooks said precisely in
15 front of the grand jury but what in fact took place.

16 MR. GOLDMAN: Your Honor, the witness has pre-
17 viously testified at great length before the grand jury
18 under oath as to what took place. He has now told this
19 court innumerable things he never mentioned before the
20 grand jury. I am entitled to show --

21 MR. MacBETH: I object to the characterization
22 of a document not in evidence.

23 THE COURT: First of all, the question to the
24 witness was did he recall telling the grand jury about pay-
25 offs. His answer was I don't recall if I said it to the

jpj

Brooks - cross

grand jury or the District Attorney.

Incidentally, this is the United States Attorney.

A United States Atrorney.

THE COURT: Now, that was the witness' answer, Mr. Gold. So, I don't know where we are going.

Q Mr. Brooks, are you saying that it is possible that you told the grand jury anything about pay-offs?

MR. MacBETH: I object, your Honor. This has been asked and answered.

THE COURT: Yes. Let the witness' answer be read. Mr. Reporter, please read the answer of the witness to that question.

(Record read.)

Q Are you saying that you told the District Attorney before you testified in the grand jury about pay-offs or kickbacks?

MR. MacBLTH: Objection, your Honor, the question has been asked and answered.

THE COURT: He's now asking him when he told the United States Attorney.

A I told the United States Attorney before I was going to testify to the grand jury.

Q That testimony, you can't recall ever giving before the grand jury?

1 jpjb

Brooks - cross

2 MR. MacBETH: Objection, that question has been
3 asked and answered.

4 MR. GOLDMAN: Your Honor, if I may, I think I
5 am entitled to bring out that the testimony here may be
6 a recent fabrication and it adds innumerable things he
7 never testified to before when the subject matter was
8 being testified to.

9 MR. MacBETH: If Mr. Goldman can establish some
10 inconsistencies between what Mr. Brooks has testified to
11 in his grand jury testimony he is entitled to go into this.
12 Otherwise he's simply on a fishing expedition.

13 THE COURT: He can bring out that the witness
14 has testified in a way different from the way he testified
15 before the grand jury and it is up to the jurors to deter-
16 mine whether this witness is testifying truthfully or not.

17 So, he can bring out that he said things which
18 were different or omitted.

19 A Can I say something?

20 Q Certainly.

21 A I only testified to the grand jury to the couple
22 of questions that the United States Attorney asked. He
23 probably didn't go into full detail in front of the
24 grand jury that I have got to give all the full details
25 in front of the grand jury. He asked specific questions

1 jpjb

Brooks - cross

2 and I answered them.

3 Q Did he ask you what conversations you had with
4 Rabbi Rosenblatt?

5 A At the grand jury?

6 Q Yes.

7 A He must have.

8 Q Well --

9 A I must have said, I offered 10 per cent. That's
10 all there is to it.

11 MR. MacBETH: This method of approaching the
12 matter does not establish any inconsistencies.

13 THE COURT: Yes. You have to ask the witness a
14 question or read a question and answer and ask the witness
15 if he was asked that question and did he give that answer.

16 Q Mr. Brooks, did you at any time in your grand jury
17 testimony testify to Rabbi Rosenblatt saying he would
18 check with the accountant, did you give any such testimony
19 as that?

20 MR. MacBETH: Your Honor, this is improper use
21 of this testimony. He's not establishing a prior incon-
22 sistent statement.

23 MR. GOLDMAN: Your Honor, different testimony
24 is inconsistencies. Failure to testify is an inconsistency.

25 THE COURT: It isn't different. The witness

1 jpjb

2 has testified that he answered the questions which were
3 put to him.

4 Now, you're asking him about testimony which he
5 has given here which does not appear in the grand jury
6 transcript and he's answered it that he wasn't asked
7 particular questions which you are now putting to him.
8 He's asked those which appear in the grand jury testimony.

9 Q In the three or four seconds or three or four
10 minutes that you testified as you testified that you
11 spoke to MacBeth before going in the grand jury, did you
12 tell him anything about the Rabbi saying I have to check
13 with an accountant?

14 MR. MacBETH: That question is irrelevant.

15 MR. GOLDMAN: Not at all. The witness gave us
16 a recently developed story. I'm attempting to bring out
17 at no prior time has he told anybody these facts.

18 THE COURT: Well, the question before the witness
19 now is whether he told the United States Attorney about
20 Mr. or Rabbi Rosenblatt saying that he had to consult an
21 accountant?

22 MR. GOLDMAN: That's correct.

23 THE COURT: That's the question to the witness.
24 Did you tell that to the United States Attorney?

25 A I told it to the United States Attorney as telling

jpjb

Brooks - cross

him what happened when I got the check and I called him up. I recall on the phone he said he wanted to speak to his accountant, on the phone that Friday of the first check.

Q When did you tell this to the United States Attorney?

A When did I tell him? When he was asking me for the story, what happened. He was asking me what the whole question was, when he came down to find out the whole story, what happened.

In the grand jury he only just wanted to get the indictment. He didn't go down into all kind of detail.

Q When did this conversation take place with the United States Attorney?

A I might have told him the first time or, you know, when I seen him, or I might have told him before I was going to testify.

Q You mean you saw him twice before you testified?

A Before I testified?

Q Yes.

A He asked me the questions and I told him the story; that's it.

Q How many times did you talk to the United States Attorney before you testified in the grand jury?

jpjb

Brooks - cross

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A Before I testified in the grand jury? One.

Q How long did that last?

A A couple of minutes, just before I went in to speak to the grand jury.

Q Now, in that couple of minutes, did you tell Mr. MacBeth about a conversation with Rabbi Rosenblatt that he had to check with his accountant?

A I just gave -- I just told him, I don't recall if I told him that.

Q That's the question, Mr. Brooks. Do you recall telling him that?

MR. MACBETH: Mr. Brooks has given the answer, he doesn't recall.

THE COURT: Yes.

Q Do you recall whether or not you told Mr. MacBeth anything about kickbacks or pay-offs? Do you recall telling him that?

A Yes. The first thing I told him was taxes and later on after the grand jury about pay-offs and kickbacks.

Q Before the grand jury, do you recall telling Mr. Brooks anything that you ever had a conversation with Rabbi Rosenblatt where you used the word kickbacks or pay-offs?

jpjb

Brooks - cross

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2 A I don't remember. All I know is that -- I don't
3 remember. All I know is the story that happened.

4 Q Mr. Brooks, were you ever fitted with any record-
5 ing devices and asked to go out and attempt to have a
6 conversation with Rabbi Rosenblatt or anybody else with
7 regard to this case?

8 A No, sir.

9 Q Now, Mr. Brookw, you told us on direct examina-
10 tion in addition to the checks in this case, you also
11 stole a check for \$230,000, is that correct?

12 A Yes.

13 Q Did you bring that check to the Rabbi?

14 A No.

15 Q What did you do with that check?

16 MR. MacBETH: Objection, may we approach the side
17 bar? This is the matter we went into yesterday.

18 (At the side bar.)

19 MR. MacBETH: The check that's being referred
20 to is the one that Brooks sent to Abraham Hardoon. I think
21 the question of who received that check is utterly irrele-
22 vant to the facts in this trial.

23 This is an attempt to bring in Abraham Hardoon
24 and an attempt to discredit a witness the government will
25 be presenting later in the case; David Hardoon, Abraham

jpjb

Brooks - cross

Hardoon's uncle. To introduce Abraham Hardoon in this case is utterly prejudicial.

THE COURT: What do you say?

MR. GOLDMAN: The uncle is going to testify in this case. The uncle is also the same individual who Mr. Broooks testified chauffeured him back and forth to Rabbi Rosenblatt, carried the cash back and forth to Rabbi Rosenblatt, drove Mr. Brooks --

THE COURT: The uncle's name is what; David?

MR. GOLDMAN: Yes. I suggest in this case, as I will demonstrate in this case, Mr. Hardoon is the person involved in this matter. He is coming in here as a witness as if he doesn't know anything and has a few general statements to make. He is very deeply involved.

The fact that his nephew was attempting to or was given a \$230,000 check by Brooks to pass is one of the facts that will evidence Mr. Hardoon's involvement. I don't believe Rabbi Rosenblatt was able to face Mr. Hardoon coming in untarnished when --

MR. MacBETH: There's been nothing from Mr. Goldman to suggest that David Hardoon had anything to do with the Abraham Hardoon check.

Moreover, it's a collateral matter to this proceeding and improperly admitted on that ground as well.

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Brooks - cross

MR. GOLDMAN: Not at all. I am showing that this witness is protecting David Hardoon on this matter and that's what --

THE COURT: Wait a minute.

MR. GOLDMAN: This witness is protecting David Hardoon by his testimony and that's why he is testifying as he is against the Rabbi.

I have to be able to show it one step at a time.

THE COURT: Just a moment.

MR. MacBETH: All of that has nothing to do whatsoever with Abraham Hardoon.

THE COURT: Just a moment. This \$230,000 check, is that the check involved in the prosecution before Judge Gaqliardi?

MR. MacBETH: Yes. He pled guilty to that.

THE COURT: I don't think that has been made clear at this moment. I think you can ask him whether he has pled guilty having stolen that check before Judge Gagliardi and is awaiting sentence. Where do you want to go from there?

MR. GOLDMAN: I wanted to show that that check was given to Abraham Hardoon. I will ultimately show with the knowledge of David Hardoon, the witness in this

jpjb

Brooks - cross

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case, and I will show that by his testimony here he is protecting David Hardoon and that's why he has testified this way against the Rabbi.

THE COURT: Your purpose then would be to discredit the testimony of David Hardoon when he takes the stand?

MR. GOLDMAN: To discredit this witness' testimony with regard to the events that happened here. Hardoon was present when these conversations took place although he denies it. I want to show that Mr. Hardoon was involved, Mr. Hardoon, et cetera, et cetera. It discredits this witness' testimony and also shows Hardoon's involvement.

THE COURT: Let me see if I understand your defense. Your defense is that the Rabbi didn't receive the money but Hardoon did.

MR. GOLDMAN: We do not dispute that the Rabbi received approximately 10 per cent but the rest of the money was divided between Brooks and David Hardoon. I want to show David Hardoon's involvement with Brooks and one of the ways I can show it is this \$230,000 transaction where he stole a check and gave it to his nephew to cash to divide the proceeds.

I will then show David Hardoon knew of the

jpjb

Brooks - cross

transaction between Brooks and the nephew.

MR. MacBETH: Your Honor, what they attempt to do is to discredit David Hardoon by introducing testimony or an attempt to introduce testimony by Abraham Hardoon.

MR. GOLDMAN: I'm about to show the connection.

MR. MacBETH: Let me finish, please. The fact is obviously this nephew and uncle share the same name. There is no other connection that Mr. Goldman has been able to show whatsoever on this. If he wants to ask this witness whether David Hardoon knew anything about the taking of that check at the time it was taken or before it came into this court, that seems to be a perfectly fair question and that goes to David Hardoon's knowledge.

To bring out Abraham Hardoon's name is clearly prejudicial and there is no showing whatsoever. He has nothing whatsoever to do with this case or any knowledge that David Hardoon knew anything that Abraham Hardoon did on this occasion.

THE COURT: Let me see if I understand this. David Hardoon, according to the testimony of this witness, was the man who drove him to the Rabbi?

MR. MacBETH: That's correct.

THE COURT: In connection with these particular checks?

MR. MacBETH: That's correct.

jpe 1

Brooks - cross

THE COURT: In the case of Judge Gagliardi, Abraham Hardoon was the one who received and tried to cash the \$200,000 check.

MR. MAC BETH: That's correct. And Abraham is the nephew of David. David is the only one related to this case. The Government knows of no relation to Abraham to this case and the Government knows of no relation of David to the other case.

THE COURT: The point is, I gather, that these are similar accounts both involving checks stolen by this witness from the Post Office, is that it?

MR. MAC BETH: It seems to me perfectly for the defense to ask any question they wanted of Mr. Brooks that does not write out Abraham Hardoon's name in an obvious attempt to argue from the fact that the names are the same that somehow David Hardoon knows about this. I think it is highly prejudicial to the Government and totally collateral to the issues here. It makes no difference whatsoever to the issues of this case as to who received that check.

MR. GOLDMAN: I am saying your witness and this witness are directly involved in that check. I am entitled to show it. I have made a showing.

THE COURT: The thing is that you are insisting all they have is similar names. They have more than similar

jpe 2

Brooks - cross

names. That's why I went over this. This witness has testified that David Hardoon drove him to the Rabbi in connection with these particular checks. Abraham Hardoon was involved with him in another check. So there is more than a name. There are similar actions on the part of Abraham Hardoon and David Hardoon. That is, they are both involved somehow. Now, it is your contention that David Hardoon apparently knew nothing about the illegality, is that it?

MR. MAC BETH: That's correct. It happens that Brooks committed similar acts with different people. They happen to have the same name and happened to be related. It brings out the name of the one in a similar and unrelated case and an obvious attempt to smear the name of another Government witness in this case is highly prejudicial and unrelated to any issues here. He can ask him whatever Brooks did as long as he doesn't elicit that name or ask David Hardoon whether he knew anything about it.

THE COURT: You can also ask him that on cross examination. I gather what Mr. Goldman is trying to do is to lay the foundation for asking these questions of David Hardoon when he gets on the witness stand.

MR. MAC BETH: Can we have an offer of proof as to what he is going to show. I think it is just to

jpe 3

Brooks - cross

bring out the name in a highly prejudicial matter.

MR. COOPER: It is clear from the 3500 material we received, David Hardoon knew that his nephew Abe was involved with Morris Brooks during the conspiracy and before at least some of the checks were brought to Rabbi Rosenblatt. If David Hardoon knew this and was continuing to move checks back and forth he was in some way aware of what was going on in these transactions.

THE COURT: I think the jury can infer that David Hardoon knew by chauffeuring this man to the Rabbi.

MR. GOLDMAN: He also carried the cash as this witness testified.

MR. MAC BETH: David Hardoon is Abraham Hardoon's uncle. Apart from that I have seen no evidence submitted by Mr. Goldman or Mr. Cooper that he had in any way had any knowledge that he knew what David Hardoon was doing. Do they have any offer of proof?

THE COURT: I am going to rule on it. I have heard all the argument I am going to hear. He will be permitted to ask the question because there are facts which the jury could find that David Hardoon knew what was happening. Let's proceed.

(In open court.)

1 jpe 4

Brooks - cross

2 CROSS EXAMINATION

3 BY MR. BROOKS:

4 Q Mr. Books, at the break I asked you aside from
5 the checks you testified to here, you stole a \$230,000
6 check from the Post Office?

7 A Yes.

8 Q What did you do with that check?

9 A I gave it to someone -- that check, I gave to
10 someone -- he told me he could take care of it. I didn't
11 want to know anything about it, he was going to get it
12 cashed for me and I gave it to someone and that's it.

13 Q Who was that someone?

14 A Mr. Abie Hardoon.

15 Q Who was Mr. Abie Hardoon?

16 A He was a nephew to David Hardoon.

17 Q The same David Hardoon who chauffeured you back
18 and forth to the Rabbi's on occasion?

19 A Yes, twice.

20 Q The same David Hardoon who carried cash back
21 and forth between you and the Rabbi on occasion?

22 A Yes.

23 Q You testified you gave a \$230,000 to Mr. Hardoon's
24 nephew, Abe Hardoon?

25 A Yes.

1 jpe 5 Brooks - cross

2 Q Did you tell Mr. Abe Hardoon how you got that
3 check?

4 A Did I tell Abe Hardoon how I got the check. I
5 don't remember if I told him. I told him I got the check,
6 here's the check, get it cashed for me and that's it. I
7 did not want to know any way or any story how it could get
8 cashed.

9 Q You offered him no explanation as to what this
10 check was and who you got it from?

11 A He must have known. I think I told him it was
12 stolen.

13 Q You told Abraham Hardoon the check you gave him
14 was stolen?

15 A Yes.

16 Q How long had you known David Hardoon, that's
17 the uncle?

18 A I've known him at least 15 years, since my
19 kids go to school, at least, 14, 15 years.

20 Q Where does he live in relation to you?

21 A Right now he lives across the street from me.
22 Before that he lived -- I lived in Kew Garden Hills and he
23 lived in Kew Gardens.

24 Q Would you describe your relationship with Mr.
25 David Hardoon as close?

jpe 6

Brooks - cross

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A Pretty close, yes.

Q Do you see each other frequently and often?

A Yes.

Q Your children play together?

A Yes.

Q In fact, does his wife take care of your children
on occasion?

A Yes.

Q Would you describe him as a man who has befriended
you and helped you when you needed it?

A Yes, but not more than anybody else.

Q Other people helped you?

A Yes.

Q Did you tell Mr. David Hardoon that you were
given a stolen check to his nephew to go cash?

A No.

Q You never mentioned it to him?

A No.

Q Did you ever consider what might happen if he
found out?A I might have considered it but I didn't tell
him.

Q It didn't stop you?

A Because I don't think his nephew wanted me to

1 jpe 7

Brooks - cross

2 tell him either.

3 Q Now, with regard to Mr. David Hardoon, you
4 said on occasion that you first came to David Hardoon,
5 David knew, you first came with the first stolen check
6 that you took from the Post Office, the one made out to a
7 woman named Brown?

8 A Yes.

9 Q You were bringing it to your close friend, a
10 stolen check for him to cash, is that right?

11 A Yes. I didn't tell him it was stolen.

12 Q But you were prepared to implicate this man
13 who had befriended you in the transaction involved in the
14 stolen check, were you not?

15 MR. MAC BETH: Objection, your Honor, that's
16 argumentative.

17 THE COURT: Let me hear the question, Mr.
18 Reporter.

19 (Record read.)

20 THE COURT: This was with reference to David
21 Hardoon?

22 MR. GOLDMAN: Yes, your Honor.

23 THE COURT: I'll let him answer.

24 A Yes, but Rosenblatt was a friend of me also. I
25 would have done the same thing. It didn't make any dif-

1 jpe 8 Brooks - cross

2 ference. I di n't think I would get caught.

3 Q You did not tell Mr. David Hardoon that this was
4 a stolen check?

5 A Definitely not, I told him it was a loan.

6 Q You didn't tell Rabbi Rosenblatt?

7 A Maybe he was afraid to cash it. He might have
8 assumed it was stolen and that's why he was afraid to cash
9 it.

10 Q You told him it was a loan from somebody?

11 A Right.

12 Q Did he ask you how come he would lend it to you
13 in this form, a Government check, did he ask you any ques-
14 tions?

15 A No. He just told me he does not have any money,
16 he didn't want to cash it, he didn't ask me any questions.

17 Q Did you tell him why people were lending it to
18 you?

19 A He didn't ask me, why should I tell him. I
20 might have told him -- I don't ~~remember~~, but I might have
21 said, well, I know these people and they are very friendly
22 and they are lending me the money. I need money to pay
23 bills.

24 Q Do you remember whether or not you actually
25 said anything like that or are you just assuming you might

1 jpe

Brooks - cross

2 have said that.

3 A I don't remember actually.

4 Q Now, at that time when you were talking to Mr.
5 David Hardoon, were you friends with the Rabbi?

6 A Yes.

7 Q You seen him often?

8 A We used to see him occasionally, yes.

9 Q Did you socialize with him at all?

10 A What do you mean by socialize?

11 Q Did you go out with him, visit his family,
12 visit his home, anything of those things?

13 A No. I might have just dropped in. I don't
14 think I socialized with him that much.

15 Q You did with Mr. David Hardoon, did you not?

16 A Yes. He lived across the street from me.

17 Q Aside from physically living there, you actually
18 visited his home, your children played together and his wife
19 took care of your children?

20 A Yes.

21 Q You didn't have that kind of relationship with
22 Rabbi Rosenblatt, did you?

23 A No.

24 Q In fact, since 25 years earlier when you had been
25 in school together, had you really seen much of Rabbi

1 jpe

Brooks - cross

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2 Rosenblatt?

3 A Have I seen much of him after that?

4 Q Outside of passing him on the street or something
5 like that, did you actually visit him for any period of
6 time?

7 A Yes. Sometimes I seen him and sometimes he gave
8 me envelopes to mail to the Post Office. He gave me stuff
9 to mail for him. That's how I got to remember him. He
10 wanted to get things mailed quicker and he used to give me
11 letters, because if I took it, it would get mailed quicker
12 because he knew I worked in the Post Office.

13 Q Whose idea was it to go to the Rabbi?

14 A That was my idea. I said, Mr. Hardoon, I'm going
15 to call up the Rabbi and he said go ahead.

16 Q Did you say "Mr. Hardoon" or did you say "David."

17 A Mr. Hardoon.

18 Q Well, this is your friend.

19 A Dave.

20 Q Your friend who lives right next door?

21 A Yes, I said Dave. Sometimes I say Hardoon.
22 People call me Brooks because it is easier to say, they
23 don't call me Morris. They call me Brooks also, because it
24 is an easier name.

25 Q Does Mr. Hardoon call the Rabbi or did you call

1 jpe Brooks - cross

2 the rabbi?

3 A I called the rabbi.

4 Q Where did you call from?

5 A I called him from a pay phone on my corner on
6 Metropolitan and Lefferts.

7 Q What time was it that you talked to Mr. David
8 Hardoon and said "I think I'll call the rabbi."

9 A I can't recall if it was --

10 Q Morning or night?

11 A It was daylight. It must have been day time.
12 Maybe after I came home from work on Friday.

13 6 o'clock.

14 Q Where did the conversation take place? Your
15 conversation with David Hardoon about calling the Rabbi,
16 where did that conversation take place?

17 A After I showed him the checks, we were down-
18 stairs in front of his building and I told Mr. Hardoon I'm
19 going to call the Rabbi.

20 Q This conversation took place on the street?

21 A Yes.

22 Q You showed him both checks?

23 A Well, first I showed him both checks. It must
24 have been in his apartment and then when I was going down,
25 if you don't want to cash me, maybe I was going down, he

1 jpe

Brooks - cross

2 might have been going downstairs. I ~~really don't~~ actually
3 remember where. I know I went to call the rabbi from the
4 corner phone.

5 Q Do you remember showing David Hardoon two
6 checks?

7 A I think I showed him both checks.

8 Q They had two different names on it, didn't
9 they?

10 A Yes.

11 Q Did you tell Mr. Hardoon that both of these
12 people were going to lend you money?

13 A That's what I said. That's what I told him.
14 Whether he believed me or not, that's another story, but
15 that's what I told him.

16 Q Now, when you called the Rabbi, you made an
17 appointment to see him?

18 A I called the Rabbi. I told him I have some
19 checks from the Government, you know, good checks from the
20 Government, if he would cash them for me. He said if I am
21 going to cash it or anything, I expect something for it.
22 I don't want to cash it for nothing.

23 Q He asked you for something?

24 A He mentioned he had money first.

25 Q You did not offer it to him?

1 jpe

Brooks - cross

2 A No, he mentioned first and then I offered it to
3 him.

4 Q When you gave the check to Abraham Hardoon,
5 did you agree to pay him something?

6 A It was 50-50 with Abraham Hardoon. That was
7 a big check and I gave it to him, it was 50-50.

8 Q You already had Rabbi Rosenblatt who was
9 cashing for 10 percent, didn't you, at the time you gave
10 Abraham Hardoon that check for \$200,000 and you were going to
11 split 50-50 with him, right?

12 A Right.

13 Q That's the --

14 A I couldn't give that check to the Rabbi. That
15 \$230,000 check was made out to a company and Abie Hardoon
16 I gave him for the company, he was going to deposit it and
17 do whatever he wanted to do with it. The Rabbi I couldn't
18 do like that. The checks I got were all made out to indi-
19 viduals. A company check the Rabbi could not deposit in
20 his account.

21 Q How is that?

22 A I assume banks don't take no company checks.

23 Q Did Abraham Hardoon have a company?

24 A Abraham Hardoon I gave him the check and he told
25 me he knows a way how he can do it. I spoke to him before,

1 jpe

Brooks - cross

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2 I'll get you a check, here it is, do it any way you want.

3 Q How old is Abraham Hardoon?

4 A A young fellow, around 21, 22.

5 Q Did he have any kind of company to cash checks
6 with?

7 A He didn't have any kind of company. He said
8 he knows a way how to get it. I gave him nine checks. I
9 know he did not have a company. I just told Abrie Hardoon
10 I don't want to know how or why or when. Here is the check
11 and do whatever you want to do, that's it.

12 Q Now, when you went to the Rabbi, you said you
13 told him -- tell us again.

14 What did you tell him about these checks, the
15 first time.

16 A I didn't want to say a loan. I figured that's
17 what scared Mr. Hardoon off. I said a loan don't sound
18 kosher, so, I told him I would give him a good story that he
19 might believe. I told him that the person didn't want to
20 put it to his account. I have a good Government check and
21 the person does not want to give it to his account because he
22 already mentioned -- we were already dickering for money,
23 I'll give you so much for so much money. He wanted 10
24 percent and I wanted less and we finally dickered and finally
25 came to terms a little less than 10 percent because it was a

jpe Brooks - cross

small amount of money. I was thinking at that time I would not tell him loans because he wouldn't believe such a story. It was a very simple story to believe that the person did not want to put it into their account because they wanted to save on the taxes.

Q You figured that was a good story and he would believe that?

A I figured that was a good story.

Q Did you tell him how the person was going to save on their taxes?

A I didn't tell him how.

Q Well, this was a Government check, issued by the United States Government?

A Right.

Q Did you tell him how somebody could avoid with the Government knowing about the receipt of money when they pay the money themselves, did you tell him that?

MR. MAC BETH: Asked and answered.

MR. GOLDMAN: That would be was not answered, your Honor.

A You want me to answer that?

Q Did you tell the Rabbi how these people were going to save on their taxes or hide the receipt of this money?

1 jpe

Brooks - cross

2 A All I told the rabbi they don't ~~want to send~~
3 it through their account. They want to save the money on
4 taxes. He believed it. "How or what or how he did not
5 ask me and he did not ask me questions and I did not answer
6 him.

7 Q You knew it was illegal, didn't you?

8 MR. MAC BETH: Objection, your Honor.

9 THE COURT: Sustained.

10 Q Let me ask you, this was a check issued by the
11 United States of America, was it not?

12 A Yes.

13 Q They were the ones paying the money?

14 A Yes.

15 Q The check had somebody's name on it, right?

16 A Yes.

17 Q You are telling us that you told the Rabbi
18 that the Government paid money directly to some individual
19 and that individual now is going to hide that money from
20 the Government, is that what you told the Rabbi?

21 MR. MAC BETH: That misstates the record. The
22 witness has not put it in those terms.

23 THE COURT: What is the question to the witness.
24 I don't know what the question to the witness is, it sounds
25 like an argument to the witness to me.

1 jpe

Brooks - cross

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2 Q Mr. Brooks, let me ask you this. I just want you
3 to answer the basic question. Did you tell the rabbi how the
4 people could possibly hide this money from the Government?

5 A I didn't tell the Rabbi how. I just told the
6 Rabbi they are saving the money on taxes. They don't
7 want to put it through their account.

8 Q You knew, did you not, that it was impossible
9 for these people to hide this money from the Government
10 since the Government wants the one who was paying him?

11 MR. MAC BETH: Objection, your Honor.

12 THE COURT: Sustained.

13 Q Mr. Brooks, you worked in the Post Office?

14 A Yes.

15 Q Would you describe your duties?

16 A I told you. I worked in the accounts payable
17 and would pay out vendors who have contracts with the
18 Government.

19 Q When vendors are paid out, is there a form
20 issued to the vendor which is filed with the Government
21 reflecting such a payment?

22 A No. What do you mean a form reflecting such a
23 payment?

24 Q Did you ever hear the form 1099?

25 A Yes, I heard of form 1099.

jpe

Brooks - cross

Q When the Government pays vendors or a contractee,
does it not issue a 1099?

A No.

Q No? Under what circumstances would the Govern-
ment not issue a 1099?

MR. MAC BETH: Objection, your Honor, this is
irrelevant.

MR. GOLDMAN: This is not irrelevant.

THE COURT: Is this a post office form that
you are asking about?

MR. GOLDMAN: This is a regular Government tax
form.

THE COURT: It might be beyond the witness'
competence. You have to establish whether he's familiar
with them and if he has worked on these forms.

Q Mr. Brooks, you are in the accounts payable
section, am I correct?

A Yes.

Q You are involved with the preparation of
invoices, were you not?

A Yes.

Q And the computer runs by which checks were issued

A Yes.

Q And the paper work surrounding the issuance of

1 jpe

Brooks - cross

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2 checks?

3 A Yes.

4 Q Did the Government keep any record of the
5 check it was issuing?

6 A Sure, the Government has records.

7 Q What records were those?

8 A They have records that were payments to who
9 they paid

10 Q The Government keeps a record of who they paid
11 the money to.

12 A Right.

13 Q The Government has a record, for instance.

14 That they paid Sara Dudley Brown on July 11, 1974 a
15 check for \$4500, did they not?

16 A Yes.

17 Q In view of that, can you tell us since you were
18 going to tell the Rabbi a good story how anybody can hide
19 the receipt of that money from the Government?

20 MR. MAC BETH: Objection, your Honor.

21 THE COURT: Sustained.

22 Q On any occasions, you testified on several
23 occasions you told the Rabbi these people don't want it to
24 go through their accounts, they want to hide it from the
25 Government, on any of those occasions, did you ever tell

1 jpe Brooks - cross 117

2 them how they could hide such a transaction from the Govern-

3 ment?

4 A No.

5 Q He never asked you?

6 A I personally assumed it wouldn't show up.

7 MR. MAC BETH: Objection, your Honor. Would

8 you instruct the witness to answer the question.

9 THE COURT: Yes, please answer the question.

10 Q Now, let's get to kickbacks. You say you told

11 the Rabbi on occasion that this check represented a kick-

12 back, for instance, Mr. Conley, that this check was a kick-

13 back to Mr. Conley, right, and he did not want that to

14 show up, so that's why he wanted the check cashed, right?

15 A That's what I said.

16 Q The same question, Mr. Brooks, did you tell the

17 Rabbi how Mr. Conley can conceal a kickback when the

18 Government was actually paying the money?

19 MR. MAC BETH: Same objection.

20 THE COURT: Sustained.

21 MR. GOLDMAN: I just asked for that conversa-

22 tion, did he tell the Rabbi how this could be done?

23 THE COURT: How Mr. Conley would do it?

24 MR. GOLDMAN: Did he ever explain to the Rabbi

25 in a conversation how this check could conceivably be a

1 jpe Brooks - cross
2 kickback, if he ever told him.

3 THE COURT: All right.

4 Q Did you ever tell the Rabbi how such a check
5 could be a kickback?

6 A Did I ever tell the Rabbi how, no, all I told
7 him it was a kickback. Just the words kickback, pay off or
8 whatever. I said kickback. How? He never asked me how
9 and if he would have asked me, I might have been stuck.
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Brooks-cross

119

Q He never asked, right?

A Never asked.

Q He asked you the first time where you got the checks from, he asked you the third time, the fourth time --

A He asked me a couple of times, and he never asked me how.

Q He never asked you anything like that, right?

A He never asked how.

Q Mr. Brooks, do you have any relatives who are ordained rabbis?

A Yes.

Q How many?

A Two. I might have three, I don't know. Let's see, one, two, three -- three or four. I think my brother-in-law is ordained, another brother-in-law. He doesn't work in the rabbinical field, but I think he is ordained.

Q Do you find that members of the community go out of their way to help you on occasions because of the fact that members of your family are ordained rabbis?

MR. MAC BETH: Objection, your Honor. This is irrelevant to the issues in this trial.

THE COURT: Yes. That calls for the operation of the mind of the persons who you suggest are helping him.

1 bsb-2 Brooks-cross

2 He can't answer that question.

3 Sustained.

4 Q Let's go back to the first occasion, the check -
5 the brown check, the check that you told Mr. Hardoon was
6 a loan. I believe you testified on direct examination
7 that Mr. Hardoon actually drove you to the rabbi's house,
8 did he not?

9 A Yes, I asked him to drive me to the rabbi's
10 house. It was a Sunday.

11 Q When did he drive you?

12 A I think it was Sunday or Monday morning, or
13 Sunday during the day.

14 Q Did Mr. Hardoon come in with you?

15 A I don't recollect. I don't recall if he came
16 in or not.

17 Q You have no recollection -- let's take it slowly.
18 Mr. Hardoon drove you there, right?

19 A Yes.

20 Q Do you have any specific recollection that he
21 waited outside?

22 A I don't recollect. He might have come in with
23 me or he waited outside. I don't really remember what
24 he did.

25 Q When you came in, you had a conversation with

bsb-3

Brooks-cross

1
2 the rabbi?

3 A Yes.

4 Q You talked about the checks?

5 A Yes.

6 Q You told him about the taxes?

7 A Yes.

8 Q Was Mr. Hardoon there?

9 A I said I don't recollect.

10 Q Are you denying or can you deny that Mr. Hardoon
11 was present when you allegedly told the rabbi that these
12 checks were to evade taxes?

13 MR. MAC BETH: Objection, your Honor. He
14 stated that he can't recollect.

15 THE COURT: Yes. he has answered the question.

16 Q Let's see if we can refresh your recollection.

17 The man who you told that the checks were loans
18 drives you to the rabbi's house, right?

19 A Right.

20 Q And now you are telling the rabbi a totally
21 different story than you told this man who brought you to
22 the rabbi's house, right?

23 A Right.

24 Q And you have no recollection whether or not the
25 man whom you told that story originally was standing there

bsb-4

Brooks-cross

when you said it?

MR. MAC BETH: Objection, your Honor. That has been asked and answered. It is simply repetition.

THE COURT: I will let him answer once more.

A I don't recollect if he came in with me or not.

Q Okay. But you remember the conversation?

A I remember the conversation with the rabbi.

Q All right.

A I knew I wasn't going to use loans again, because I noticed he didn't cash it for me.

Q You don't know whether the man you told it to was standing right there or not, do you?

MR. MAC BETH: Objection.

THE COURT: Asked and answered.

BY MR. GOLDMAN:

Q You also testified that on the first several occasions Mr. Hardoon carried first a check from you to the rabbi and then, as a favor to you, he picked up an envelope from the rabbi and he brought it back, ri

A The envelope that I gave to Mr. Hardoon, also he didn't know there was a check in there. I just gave him an envelope to carry to the rabbi.

Q What did you tell him it was?

A I said, "I have something for the rabbi," because

bsb-5 Brooks-cross

1 a couple of times the rabbi used to send me envelopes to
2 mail for him, and I sent him. I didn't want him to know
3 anything what it is all about.
4

5 Q What did you say to Mr. Hardoon, why was he
6 running errands for you?

7 MR. MAC BETH: Objection, your Honor. It is
8 a compound question. He can ask for it --

9 MR. GOLDMAN: I will withdraw the question.

10 Q What did you tell, if anything, Mr. Hardoon
11 that induced him to run this errand for you?

12 A I asked him to do me a favor.

13 MR. MAC BETH: Objection to the characterization
14 of inducing him. He can ask for the conversation.

15 THE COURT: Yes. Don't characterize it, Mr.
16 Goldman, just ask him what he said to Mr. Hardoon.

17 A I asked him to do me a favor. To take this
18 check down, because I had to go to work, and I asked him
19 to do me a favor to take it down to Rosenblatt.

20 Q Did you tell him it was the same check you
21 had asked him to cash before?

22 A You are talking about envelopes, bringing down.
23 That time I went myself. He drove me down.

24 Q On the time that you asked Mr. Hardoon to take
25 the envelope to Rabbi Rosenblatt, that was the second

1 bsb-6

Brooks-cross

2 occasion, right?

3 A I think the second, or it might have been the
4 third. I don't remember.

5 Q On that occasion did you tell him there was
6 a check inside?

7 A I don't think -- no, I don't think I told him
8 there was a check inside.

9 Q And did you ask him to pick up something from
10 the rabbi a few days later?

11 A A few days later I asked him to pick something
12 up, right.

13 Q What was that you asked him to pick up?

14 A An envelope.

15 Q What was in the envelope?

16 A Cash and a check.

17 Q How much cash?

18 A Well, one time it was -- if it was the second
19 or third time, I don't know which time it was, if it was
20 when -- whatever the check was less 10 per cent, the first.
21 The third time it may have been the -- no, the third time
22 I went to the bank with him. Now, it was the -- the second
23 one was a \$6000 check and the rest in cash, the 3000 in
24 cash, or so. That is the time he -- I don't think he brought
25 it to me.

bsb-7

Brooks-cross

Q The \$3000 in cash, let's say, what denomination bills were those?

A Hundreds. Hundreds or twenties, who recollects? I only recollect the time that I went into the bank with him, I remember one time he didn't have -- the bank gave me twenties, a bunch of twenties. I gave that to the rabbi, his 10 per cent.

Q So it was \$3000 in cash, hundreds and maybe twenties, you don't remember, right?

A In these three thousand? These three thousand I don't remember. I think it was hundreds of fifties. Large denominations.

Q Fifties? All right.

Did you tell Mr. Hardoon what was in that envelope?

A I don't think I told Mr. Hardoon.

Q Well, did you see the envelope when Mr. Hardoon gave it to you?

A Did I see the envelope?

Q Yes.

A He gave me an envelope. I remember it was white, yes, I think it was a white envelope, white or brown, I really don't remember.

Q Any trouble noticing what was in it, a lot of

1 bab-8

Brooks-cross

2 bills?

3 MR. MAC BETH: Objection, your Honor. That
4 calls for a mental process and conclusion.

5 THE COURT: Who are you asking, are you asking
6 whether he, the witness, knew what was in it?

7 MR. GOLDMAN: Right. He received it. Now
8 I am asking, as he looks at it --

9 A I knew what was in it.

10 MR. MAC BETH: Objection.

11 THE COURT: Just a moment. What is the objection?

12 MR. MAC BETH: He can ask what it looks like.
13 He is asking for the mental operation, whether by looking
14 at it one would know what was in it.

15 THE COURT: You are asking the witness whether
16 on seeing the envelope he, the witness, could tell what
17 was in it? Is that the question to the witness?

18 MR. GOLDMAN: Yes.

19 THE COURT: All right.

20 A I don't know if he can tell.

21 THE COURT: He is asking you.

22 THE WITNESS: If I can tell what was in it?

23 THE COURT: Yes.

24 THE WITNESS: Well, I have to -- I assumed --
25 I assumed it was the money, so I knew what actually to

1 bsb-9

Brooks-cross

2 me I could tell -- figured I can tell what was in there.
3 I mean, I wouldn't know -- to me, I would say I knew what
4 was in there.

5 To another person maybe not.

6 Q There was in there, in that envelope, a minimum
7 of twenty \$100 bills or 150 twenty dollar bills or something
8 in the middle, there were at least 30 bills of currency
9 and possibly 150 in a plain white envelope?

10 A It was a big envelope. I don't remember if
11 it was white or brown, an envelope.

12 Q Did you tell Mr. Hardoon what was in the
13 envelope?

14 A Did -- no, I didn't tell Mr. Hardoon what was
15 in the envelope. He could have assumed, knowing that
16 one time I went with him with a check, the first time,
17 but I didn't tell him what was in there.

18 Q You had no conversations whatsoever with Mr.
19 Hardoon about the fact that he was running -- strike
20 that.

21 The fact that he was delivering the check for
22 you on one day and bringing the cash back another day, you
23 never discussed with him what it was all about, right?

24 A No, I hardly ever discussed it. Maybe he
25 knew, he assumed, maybe, but I didn't discuss it.

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bsb-10

Brooks-cross

Q Did he ever ask you?

A What?

(continued on next page.)

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Brooks - cross

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Q Did he ever ask you?

A No. I don't remember him asking me.

Q Incidentally, that first meeting with the Rabbi at the Rabbi's house when Mr. Hardoon was or wasn't present, you also discussed 10 per cent at that meeting?

A Did I discuss 10 per cent with him?

Q Yes.

A Yes.

Q On the second occasion --

A 10 or less. I think the first one he got a little less.

Q On the second transaction, that's the --

A The 5,000?

Q On the first transaction, Mr. Brooks, do you recall receiving -- how much did you receive from the Rabbi?

A Exactly how much I don't recall. I said I know it was less than -- he didn't get 10 per cent, the full 10 per cent.

Q He didn't get the full 10 per cent?

A Not the first, I don't think I didn't give the full 10 per cent.

Q Do you have any recollection of exactly how much you got?

- 1 bsjb 2 Brooks - cross
- 2 A No, just figure out --
- 3 Q Two checks totaled \$10,000, right?
- 4 A I got around 8,000.
- 5 Q You mean you --
- 6 A 8,000, 9,000, I must have got 9,200.
- 7 Q What form was that in?
- 8 A All cash.
- 9 Q All cash, right?
- 10 A I got cash. It might have been a check and he
- 11 cashed it later on, but cash I think.
- 12 Q In other words, you have a recollection that
- 13 whatever you got out of that first check he gave you cash,
- 14 right?
- 15 A That's what I recollect. The only thing I
- 16 recollect was the \$6,000 check, the other one, on the
- 17 second time.
- 18 Q Can you tell us how much the cash was that he
- 19 gave you?
- 20 A I told you, I collected around -- he may have
- 21 given me in two drabs or something, but I know I col-
- 22 lected around 9,200 or 9,300, something like that. He
- 23 may have taken 800 or 600.
- 24 Q It might have been 19,200, 19,300, something
- 25 in there, right?

1 bsjb 3 Brooks - cross

2 A It might have been a little bit at first and then
3 maybe he gave me some later on.

4 Q And all in cash?

5 A He may have -- maybe they didn't have that much
6 in the bank or something, but I got it. That's all I got.

7 Q And it was all in cash, right?

8 A Yes. If I remember correctly.

9 Q Other than the cash, did he give you anything
10 else?

11 A What do you mean anything else?

12 Q He gave you nineteen, two, nineteen, three in
13 cash. In addition to that did he give you anything else?

14 A Not that I recollect. What do you mean? Did
15 he give me a present or something?

16 Q Did he give you any more money?

17 A I don't recollect.

18 Q Did he give you a check?

19 A He may have gave me a check that he cashed for
20 me later on, a small check. But I think the first time
21 he wrote -- I got it in dribs and drabs, a check or some-
22 thing. I don't recollect if he did give me a check or
23 not. The only check I remember was the \$6,000 check.

24 MR. GOLDMAN: Can I have this marked for iden-
25 tification.

1 bsjb 4

Brooks - cross

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2 (Defendant's Exhibit A marked for identifica-
3 tion.)

4 Q Mr. Brooks, let me show you what has been marked
5 Exhibit A for identification.

6 Can you identify that?

7 A Yes.

8 Q What is it?

9 A A check for \$700.

10 Q When is it dated?

11 A July 18th.

12 Q Look on the back. Who cashed that check?

13 A I endorsed it.

14 Q Does Rabbi Rosenblatt's endorsement appear any-
15 where on there?

16 A No.

17 Q Did Rabbi Rosenblatt give you that check?

18 A Yes, Rabbi Rosenblatt gave me that check.

19 Q So in addition to nineteen, two or nineteen,
20 three, maybe, \$100 in cash, you also got a check for
21 \$700, did you not?

22 A This may be part of it. This may be part of
23 it. 700, maybe he gave me cash. A check and then he
24 cashed it for me later on.

25 Q Mr. Brooks, did I not ask you on several

1 bsjb 5

Brooks - cross

133

2 occasions, nineteen, two or \$19,300 you got in cash, and
3 didn't you a moment ago say, yes, you got it in cash?

4 MR. MacBETH: Your Honor, I believe that mis-
5 states the record.

6 MR. GOLDMAN: I'll stand on the record, your
7 Honor. I will withdraw it and stand on the record.

8 THE COURT: All right.

9 A Yes, he gave me this check. I see he gave me
10 this check and he took it back and cashed it for me.

11 Q You say he took it back. Is there any evidence
12 on there that he took it back and cashed it?

13 A I didn't cash it. I never cashed the check.
14 There is no evidence that he took it back, but I never
15 cashed it. Maybe he knew the bank manager and let it
16 through like this. I never cashed it.

17 I'm positive, I think he took it back and cashed
18 it.

19 Q Is there your endorsement on there?

20 A Yes.

21 Q Does the Rabbi's endorsement appear anywhere
22 on that check?

23 A No.

24 Q Thank you.

25 THE COURT: Are you offering that?

1 bsjb 6

Brooks - cross

2 MR. GOLDMAN: Yes, your Honor. I offer that in
3 evidence.

4 MR. MacBETH: No objection.

5 THE COURT: All right. Defendant's Exhibit A
6 received.

XXX

7 (Defendant's Exhibit A received in evidence.)

8 Q Just to return to something for a moment, Mr.
9 Brooks, that I asked you about before generally:

10 Do you know what a 1099 form is?

11 A What?

12 Q Do you know what a 1099 form is?

13 A I found out what a 1099 form is recently.

14 Q What is a 1099 form?

15 A That is individual, where they send forms of
16 money how you make. If an individual works, what he does
17 is something, a contract, if he works for a person, and
18 he wants to have a record, because he has to fill out his
19 income tax, he can ask for a 1099. I got a call from
20 someone asking for a 1099.

21 Q The government sends a 1099, is that correct?

22 MR. MacBETH: Objection. What are the circum-
23 stances?

24 MR. GOLDMAN: I'm asking general information.

25 MR. MacBETH: Under what circumstances does the

1 bsjb 7

Brooks - cross

2 government send a 1099?

3 THE COURT: You have to establish again that
4 the witness is familiar with this form because he's worked
5 on it somehow.

6 Q How about W-2 forms? You know what they are,
7 don't you?

8 A I know what they are.

9 Q And what is a W-2 form?

10 A That's if you work, you get a W-2 form at the
11 end of the year. Anybody who works.

12 Q The government pays an individual money, they
13 will issue a W-2 form, right?

14 A Right.

15 Q Do you know what the government does with the
16 W-2 form after it makes it up? I'm asking if he knows.

17 Do you know what it does with it?

18 A They sent it to the person, the individual, they
19 send part probably to the government.

20 Q Mr. Brooks, according to your testimony you
21 stole checks totaling 183 some odd thousand dollars,
22 according to your testimony, you gave 10 per cent of
23 that to Rabbi Rosenblatt, that leaves approximately
24 \$165,000, is that correct?

25 A Rabbi Rosenblatt got approximately \$18,000.

1 bsjb 8

Brooks - cross

2 Q You got back, or you received \$165,000?

3 A Approximately, yes.

4 Q What did you do with that money?

5 A Gambled it.

6 MR. MacBETH: Objection, your Honor.

7 Q What did you do with it?

8 MR. MacBETH: Objection, your Honor.

9 THE COURT: Just a moment. I think the question
10 has been asked and answered.

11 Q You say you gambled it away?

12 A Yes.

13 Q Pardon me?

14 A Yes.

15 Q All of it?

16 A Yes.

17 MR. MacBETH: Objection, your Honor. It's
18 irrelevant to the issues here as to what happened to the
19 money.

20 THE COURT: Yes. Sustained.

21 Q Did you share it with anybody else?

22 MR. MacBETH: Objection.

23 THE COURT: Sustained.

24 Q Did any other person participate with you in
25 the division of that money, Mr. Brooks?

bsjb 9

Brooks - cross

137

A No.

Q Specifically, did Mr. David Hardoon participate with you in the distribution of that money?

A No.

Q You gave him none of it?

A No.

Q That's your testimony?

A Yes.

Q Do you currently maintain any bank accounts, Mr. Brooks?

A Do I have any bank accounts? No.

Q Pardon me?

A No.

JUROR NO. 8: I didn't hear him.

Q Speak up.

A No.

Q Outside of the United States?

MR. MacBETH: Objection, your Honor.

THE COURT: Sustained.

Q Does anybody maintain a bank account in your behalf?

MR. MacBETH: Objection.

MR. GOLDMAN: Your Honor, this goes directly to the issues.

1 bsjb 10

Brooks - cross

2 THE COURT: Let's approach the side bar.

3 (At the side bar.)

4 THE COURT: Mr. Goldman, it seems to me as the
5 government says it is not relevant to anything this jury
6 has to decide what this man did with the money once he
7 got it.

8 MR. GOLDMAN: Except, your Honor, we have reason
9 to believe, and I think I can bring out and subsequently
10 establish that Mr. Haroon maintains an account for Mr.
11 Brooks, and he told the government that he gambled it
12 away so he doesn't have to return it.

13 We have reason to believe that he has a substan-
14 tial portion of this money.

15 MR. COOPER: If he shared the profits from what-
16 ever this was with Mr. Haroon, it is certainly relevant
17 and is certainly opposite of what Mr. Haroon is going to
18 say.

19 MR. MacBETH: What proof does the defense have
20 to offer that that is so?

21 MR. GOLDMAN: I'll ask him.

22 MR. MacBETH: He's given the answer as to what
23 happened to the money.

24 THE COURT: Yes. You cannot do that unless you
25 have some offer of proof. You cannot insinuate to the

1 bsjb 11

Brooks - cross

139

2 jury various things unless you have some basis for it.

3 MR. GOLDMAN: I also have a witness who will
4 testify that Brooks told him that he split the money with
5 Hardoon, that in fact Hardoon was a pig, and I also have
6 reason to believe that a bank account is maintained in
7 Bank Leumi, Israel, where this money is.

8 MR. MacBETH: This is a collateral issue to the
9 matter before this jury. The matter before this jury is --

10 MR. GOLDMAN: I would think you would want to
11 know so you can get the money back.

12 MR. MacBETH: This is a collateral issue to the
13 matter before this jury, which is whether or not the agree-
14 ment was entered into between Brooks and Rabbi Rosenblatt.

15 Further, Brooks has answered this question, and
16 the defense is bound by the answer that Brooks gives to
17 the question. They cannot proceed into collateral issues
18 in this matter.

19 THE COURT: Yes. That seems to be true, Mr.
20 Goldman.

21 MR. GOLDMAN: Your Honor --

22 MR. COOPER: If Mr. Hardoon was involved in this
23 thing it is certainly not collateral, it goes to the heart
24 of it.

25 MR. MacBETH: The issue here is whether or not

1 bsjb 12

Brooks - cross

2 Rabbi Rosenblatt entered into a conspiracy to defraud
3 the United States, that is the issue before this jury,
4 and only that.

5 THE COURT: The objection is sustained.

6 (In open court.)

7 (Continued on next page.)
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Brooks - cross

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(In open court.)

Q Mr. Brooks, did you ever have a conversation with anybody wherein you said David Hardoon was a pig?

MR. MacBETH: Objection. I consider that irrelevant to the issues before this jury.

THE COURT: Yes, I think so.

MR. GOLDMAN: I'm asking now for a specific conversation, your Honor.

MR. MacBETH: It's still irrelevant.

THE COURT: Yes, it is.

Q Mr. Brooks, when Mr. Abraham Hardoon was arrested with regard to this check that you gave him, is it a fact that he was represented by the same attorney that represented you?

MR. MacBETH: Objection, your Honor.

THE COURT: Yes, sustained.

MR. GOLDMAN: Your Honor, I want to show the involvement here with the entire situation and I think I can.

THE COURT: Objection sustained.

Q Is Mr. Hardoon paying your legal fees, Mr. Brooks?

A Do I have to answer that?

THE COURT: Yes.

1 jpjb 2

Brooks - cross

2 A No.

3 Q That's as to the same lawyers who represent you --

4 MR. MacBETH: Objection, your Honor. This is
5 again going to the same question that your Honor has ruled
6 as objectionable.

7 THE COURT: Yes, sustained.

8 Q Now, Mr. Brooks, you were arrested in these two
9 cases, were you not? You were arrested in this case for
10 stealing the checks --

11 A I was arrested in this case and the other case
12 later on. I wasn't arrested for the other case. I was
13 indicted.

14 Q You were indicted. You pleaded guilty, didn't
15 you?

16 A Yes.

17 Q You pleaded guilty in this case, did you not?

18 A Yes.

19 Q And you were only charged with making false
20 entries in the books and records of the Post Office and
21 conspiracy in this case?

22 MR. MacBETH: Objection to the characterization
23 as only, your Honor.

24 THE COURT: Yes, sustained.

25 Q Mr. Brooks, you tell us what you understand you

jpjb 3

Brooks - cross

143

1
2 were charged with in this case.

3 A Making false entries and conspiracy to defraud
4 the government..

5 Q You were not charged with stealing the checks,
6 were you?

7 A For this?

8 Q Yes.

9 A No.

10 Q Now, you pleaded guilty to that charge of making
11 false entries?

12 A Yes.

13 Q When did you enter that plea of guilty?

14 A When I went before the judge.

15 Q When was that?

16 A Well, April 14th.

17 Q Of what year?

18 A 1976.

19 Q Was there a date set for sentence?

20 A There was a date set for two weeks later and
21 then it was postponed.

22 (Continued on next page.)
23
24
25

Tk 5B AM

jpb-1

Brooks-cross

144

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Q For what reason was it postponed?

3

A For no reason. There was no date actually

4

set.

5

Q You understand, do you not, that you will not

6

be sentenced until you complete your testimony.

7

A What?

8

Q You understand, do you not, that you will not be

9

sen tenced until after you complete your testimony?

10

A I will not be sentenced until after the trial,

11

right.

12

Q You were told that, right? You knew that you

13

would not be sentenced until you finished testifying, right?

14

A More or less so.

15

Q Well, is there any doubt about that, Mr.Brooks?

16

A I think the Judge said until after the trial

17

when I made the plea.

18

Q Didn't you agree with Mr. MacBeth or didn't

19

Mr. MacBeth inform you that your sentence would be put off

20

until after you finished testifying?

21

A He didn't say after I finished testifying. He

22

said after the trial. Period.

23

Q Were you also told that your cooperation would

24

be brought to the attention of the Judge?

25

A Yes. My cooperation would be brought to the

jpb-2

Brooks-cross

145

1 jpb-2 Brooks-cross 145
2 attention of the Judge.

3 Q Isn't it a fact, Mr. Brooks, that as far as you
4 are concerned, the sentence you receive may be as good or
5 as bad as the testimony that you give?

6 MR. MAC BETH: Objection, your Honor.

7 THE COURT: Yes, it calls for a conclusion on
8 the part of the witness.

9 MR. GOLDMAN: But it is this witness, your
10 Honor.

11 Q Do you believe, Mr. Brooks, that the better
12 testimony is the better or more leniency you might obtain
13 from the Court?

14 MR. MAC BETH: Objection, the question is
15 ambiguous to start with.

16 THE COURT: First of all, the proper question
17 to the witness, Mr. Goldman, is whether he hopes for
18 leniency from the Court as the result of his testimony.
19 That would be a proper question.

20 MR. GOLDMAN: I will accept that, your Honor.

21 Q Is that a fact, Mr. Brooks, that you hope for
22 leniency based on your testimony?

23 A I am only tell the testimony on the truth.
24 That's it. The truth of what happened.

25 Q Are you saying, Mr. Brooks, that if you felt --

jpb-3

Brooks-cross

would you lie under any circumstances?

A No.

Q If you felt you could really help yourself and maybe avoid a big sentence, you wouldn't lie?

A No, I wouldn't lie.

Q That is the same man who would implicate two good friends without their knowledge in a criminal act, you are now saying you wouldn't lie to save yourself, is that right?

MR. MAC BETH: Objection, that is argumentative.

THE COURT: Yes, sustained.

MR. GOLDMAN: I have no further questions.

THE COURT: Any redirect?

MR. MAC BETH: May we have just a moment, your Honor.

THE COURT: Yes. Well, suppose we recess now until two o'clock for lunch. The jury is excused until two o'clock for lunch. Everyone in the courtroom remain seated until the jurors have left.

(Jury leaves the courtroom.)

THE COURT: The witness is excused until two o'clock for lunch.

(Luncheon recess.)

Tk 1A PM

bsb-1

AFTERNOON SESSION
2:00 P.M.

(In open court; jury present.)

M O R R I S B R O O K S resumed.

THE COURT: You may proceed, Mr. MacBeth.

REDIRECT EXAMINATION

BY MR. MAC BETH:

Q Mr. Brooks, you testified that you went to school with Mr. Rosenblatt. Where was it that you went to school with him?

A In Cleveland, Ohio.

Q What was the school that you attended?

A It was called the Rabbinical College of Telshe.

Q Mr. Brooks, you have testified that you stole a \$230,000 check from the post office, is that correct?

A Yes.

Q Did you receive any money out of that check?

A No.

Q To your knowledge, was that check ever cashed?

A No, not to my knowledge. I don't know. I never received any money.

Q Mr. Brooks, how long did you work in the accounts payable section of the post office?

A I worked since 1967.

Q Are you familiar with the forms that are prepared

1 bsb-2 Brooks-redirect
2 recross
3 in the accounts payable section of the post office?

4 A Yes.

5 Q You are familiar with the method by which payment
6 are made to vendors who have contracts with the post office?

7 A Yes.

8 Q In your experience, did the accounts payable
9 section prepare any forms that were forwarded to the
10 Internal Revenue Service?

11 A No. My section didn't prepare any forms.

12 Q Did your section prepare what is known as
13 a form 1099?

14 A No.

15 MR. MAC BETH: I have no further questions of
16 this witness.

17 RE CROSS-EXAMINATION

18 BY MR. GOLDMAN:

19 Q Mr. Brooks, you testified that you didn't receive
20 any money from that \$230,000 check, is that correct?

21 A Yes.

22 Q To your knowledge, it wasn't cashed, is that
23 correct?

24 A I don't know. All I know, he got caught --
25 got arrested.

26 Q Mr. Abraham Hardoon got caught trying to cash it?

bsb-3

Brooks-recross

1 A I don't know what happened. I don't know trying
2 to do what, when or where.

3 Q You have no idea what happened with regard to
4 his being caught or not caught, you have no idea what
5 happened?
6

7 A As far as what? All I know is he was caught.

8 Q While trying to cash it, is that right?

9 A I don't know when, what or where. I just know
10 while trying to cash that check, different checks, any
11 check. All I know is he was caught, that is all.
12 I don't know why, how, when or where.

13 Q Did you ever ask him?

14 A Did I ever ask him?

15 Q Yes.

16 A I never spoke to him much after he was caught, I
17 was afraid to speak to him. I was first -- I knew about
18 the other check, I first admitted in November 19. Before
19 that he was arrested, before he was arrested in July, when-
20 ever that check was made out. So I didn't want to speak
21 to him at all.

22 Q He was arrested some time in July of 1975,
23 is that what you are saying?

24 A He was arrested some time in July.

25 Q And you are saying you didn't speak to him after

bsb-4 Brooks-recross

that point?

A As far as what?

Q Did you talk to him, ask him what happened?

A No, I didn't ask him what happened. He just got arrested and he pleaded guilty, I heard. That's it.

Q He got arrested -- weren't you interested to findout if he was arrested for a check you had given him?

MR. MAC BETH: Objection, your Honor. This is beyond the scope of the redirect and it calls for the mental processes of the witness.

MR. GOLDMAN: The United States Attorney specifically asked this witness about that check not being cashed, and this witness' knowledge of it. He left out the very significant portions of it, and I think I am entitled to explore it further.

THE COURT: The witness has testified that he doesn't know whether the check was cashed or not, of his own knowledge. He assumes that it was not since the defendant was arrested trying to cash it, he assumes. Where are we going from there?

MR. GOLDMAN: I am asking if he ever asked Abe Hardoon --

THE COURT: He answered that question. Read the answer, Mr. Reporter.

bsb-5

Brooks-recross

(Record read.)

Q Didn't you ever ask Abe Hardoon personally what happened?

THE COURT: Go back to the previous question. He answered that question more than once.

(Record read.)

Q Mr. Brooks, is it your testimony that you didn't speak directly to Abe Hardoon about the circumstances of his arrest regarding this check?

A I don't know, I might have asked him is there any way of them knowing that I gave you the check, or something like that, and that's it, maybe. It could have been that, or maybe not. That's it, as long as -- maybe I was even afraid. I just didn't want to get involved. I told him, you know, when I gave him the check, I said, "I don't want to be involved, if you ever get caught you are on your own."

Q So it is a fact, Mr. Brooks, that you do know the circumstances of what he was arrested for, isn't that true?

MR. MAC BETH: Objection, your Honor. That misstates the record.

MR. GOLDMAN: Your Honor, I have trouble getting out of this witness a straight answer. What is he

1 bsb-6

Brooks-recross

2 exactly saying here?

3 THE COURT: I don't know what the question
4 is. He says that he knows the man was arrested.

5 MR. GOLDMAN: He tried to infer that he didn't
6 really know exactly what for. I want to demonstrate that
7 he knew precisely what he was arrested for.

8 THE COURT: Ask him now.

9 Do you know precisely what Abraham Hardoon was
10 arrested for?

11 THE WITNESS: He was arrested -- I don't know
12 for what check, when check or what check, but I know he
13 was arrested relative to this \$230,000. I don't know if
14 that was that check he gave in, or maybe he did something,
15 other checks or something, I don't know how or what.
16 Don't you understand?

17 Q Did you ever give him any other checks besides
18 that --

19 A No, I never gave him any other check.

20 Q Don't you know, Mr. Brooks, that he was arrested
21 specifically for that check?

22 MR. MAC BETH: Objection. This has been asked
23 and answered, your Honor. It is simply repetition, over
24 and over and over.

25 THE COURT: The witness answered that he

1 bsb-7

Brooks-recross

2 doesn't know whether it was specifically this check or
3 some other checks which led to this check.

4 Do you want his answer read?

5 Q Do you know what crime Mr. Hardoon was charged
6 with?

7 A The exact nature, the name of the crime? I
8 don't know. All I know is he got arrested, something that
9 led to this \$230,000 check, that is all. The name of the
10 crime, what it was, what the indictment was for what,
11 when, I don't think I ever read any testimony or anything,
12 I don't know any of the legal terms or anything like that.

13 Q Didn't you ever speak directly to Abe Hardoon
14 about it?

15 MR. MAC BETH: Objection, your Honor. He has
16 been over this ground time and time again. It is simply
17 a waste of time.

18 MR. GOLDMAN: The witness doesn't give
19 a straight answer and --

20 MR. MAC BETH: He has had a straight answer.

21 THE COURT: The question to the witness now
22 is whether he ever spoke directly to Abraham Hardoon about
23 the arrest for this check, is that the question?

24 MR. GOLDMAN: Yes, your Honor.

25 THE COURT: All right. Answer that question.

bsb-8

Brooks-recross

1 Q Did you, Mr.Brooks?

2 A Yes, I might have said to him -- I might have
3 said to him after he was arrested that there is no way
4 of them knowing that I got the check, and don't implicate
5 me, and that's it. I might have said that. I don't
6 know.
7

8 Q Are we clear, Mr.Brooks, you do know what he
9 got arrested for and you did discuss it with him and in fact
10 you talked to him to make sure he didn't implicate you,
11 isn't that true, Mr.Brooks?

12 A I don't --

13 MR. MacBETH: Argumentative,your Honor. I
14 object.

15 THE COURT: Overruled.

16 Q Isn't that true, Mr.Brooks?

17 A I don't remember. I remember when I gave him
18 the check, I don't want -- I said, "If you ever get caught,
19 I don't want to be involved." There was no way of them
20 knowing that I got the check.

21 Q I am saying, after he was arrested, after he
22 was arrested, Mr.Brooks --

23 A After? I might -- after he was arrested I
24 might not have spoken to him regarding that. I might have
25 -sked him whether they know. I might have not. I really

bsb-9 Brooks-recross

don't recollect.

Q Did you remain --

A I remember saying definitely to him, "I don't want to know anything about the check. If you ever get caught don't involve me."

Q Did you remain friends with him?

A Did I remain friends with him?

Q After he was arrested.

A Yes.

Q Did you see him from time to time?

A Yes.

Q Right. In fact, he was married in January of '76, was he not?

A Yes.

Q That was months after this happened?

A Yes.

Q You went to the wedding?

A Yes.

Q And in that intervening period when you remained friends and you went to the wedding, you never discussed with him his arrest and the check that you gave him, that you have a recollection of?

MR. MACBETH: Asked and answered, your Honor.

MR. GOLDMAN: Now I framed it very clearly,

1 bsb-10

Brooks-recross

2 your Honor.

3 THE COURT: All right.

4 Q Is that what you are telling this jury, Mr.
5 Brooks?

6 A I said I went to the wedding. I didn't talk
7 about it. He was arrested and he went to jail and that's
8 it. He was sentenced and whatever happened. I didn't
9 speak to him about it at all. I hardly speak to him about
10 these things. I don't want to bring up bad memories.
11 I didn't speak to him about these things.

12 Q Mr. Brooks, you said that your department
13 specifically didn't prepare 1099s, is that correct?

14 A That's right.

15 Q How about W-2s?

16 A My department don't prepare no W-2s either.

17 Q Was that done in the same building, however, that
18 you were in?

19 A In the same building, yes,

20 MR. MACBETH: What is in the same building?
21 What is being referred to now?

22 Q Did they prepare W-2s in the same building you
23 were in?

24 A Yes.

25 Q Did they --

bsb-11

Brooks-recross

1
2 A I assume they do.

3 Q Did they prepare 1099s in the same building
4 you were in?

5 A Well, I didn't know they prepared 1099s until
6 I once seen them go out a long time ago, a couple of years
7 ago, or even the end of this year, but I never even knew
8 what a 1099 was.

9 Q What records were maintained in your department
10 of the checks that were issued?

11 A What records?

12 Q Yes.

13 A We had a record of a contract. We had a record
14 of so much we paid out against this contract. We also
15 had a pay listing of the checks issued.

16 Q Did you do anything at all with those lists of
17 checks, did you forward them to any other departments?

18 A No.

19 Q Did you ever advise any other department that
20 a check had been issued?

21 A It is all through a computer.

22 Q So you sent the information into a computer,
23 did you not?

24 A The information -- as a check is being made
25 there is a record in the computer there is a check being

bsb-12

Brooks-recross

issued to so and so, there is this and that amount of money against this and that account.

Q With regard to the Rabbinical College that you say you attended, which was actually a high school, did you finish that school, did you graduate?

A I graduated that high school, yes.

Q Where did you go after that?

A Well, I went to another rabbinical school in Lakewood, and then I -- that's it.

Q When did you come to New York?

A I lived in New York.

Q You went to school out of town?

A Right.

MR. GOLDMAN: I have no further questions, your Honor.

THE COURT: Anything further?

MR. MACBETH: Nothing further for the Government, your Honor.

THE COURT: If not, the witness may come down.

Thank you.

(Witness excused.)

1A PM

1 bsbr 1 D.Hardoon-direct

2 THE COURT: Next witness.

3 MR. MACBETH: The government calls David Hardoon.

4 D * V I D H A R D O O N, called as a witness on
5 behalf of the government, having been first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MACBETH:

9 THE COURT: Before we begin, Mr. Hardoon, in
10 answering the questions you are going to have to throw
11 your voice so that the very last juror can hear you. Do
12 you understand?

13 THE WITNESS: Okay.

14 THE COURT: Please keep your voice up.

15 BY MR. MACBETH:

16 Q Mr. Hardoon, where did you live in 1974 and
17 1975?

18 A 8315 Lefferts Boulevard, in Kew Gardens.

19 Q Did you know Morris Brooks at that time?

20 A Yes, sir.

21 Q Where was his house in relationship to your house
22 at that time?

23 A Right across the street.

24 Q Had you known Morris Brooks for some time?

25 A Yes.

1 bsbr 2 D.Hardoon-direct

2 Q For how long?

3 A About ten, twleve, fifteen years, something
4 like that.

5 Q Can you describe the terms on which you were with
6 him?

7 A Well, you know, he's divorced and he has four
8 children -- five children. He has two or three of his kids
9 that go to the same class as my children, they are in the same
10 school, same class.

11 Q So that you knew him well over that period of
12 time?

13 A Fairly well.

14 Q You spoke to him frequently?

15 A Yes. The children are also over the house.
16 Because he's divorced, you know, he doesn't have his wife
17 with him.

18 Q Calling your attention now to July of 1974, did
19 you have a conversation with Morris Brooks at that time?

20 A What conversation?

21 Q Do you remember in that period of time having
22 many conversations with him?

23 A Well, he came down to me about a check he had,
24 he wanted me to cash for him.

25 Q Would you tell the jury what you remember of

1 bsbr 3 D. Hardoon-direct

2 that conversation, what he said to you and what you said to
3 him?

4 A He said the lady loaned him this money, the check,
5 and he asked me if I could cash it for him.

6 Q Do you remember the name on the check?

7 A Gloria Brown.

8 Q Did you have further conversation with him at that
9 time?

10 A I told him I couldn't do it for him, and
11 that was it.

12 Q Did he say anything further to you?

13 A I think it was a day later he told me that he
14 called up the rabbi and that he would go down to see the rabbi.

15 Q Who did you understand him to mean when he said
16 he had called up the rabbi?

17 A Rabbi Rosenblatt.

18 Q Do you see Rabbi Rosenblatt in the courtroom
19 today?

20 A Yes.

21 Q Would you point him out to the jury?

22 A There (indicating).

23 Q You have to describe him for the record.

24 A That's the rabbi, the middle man.

25 Q At the back table?

1 bsbr 4 D.Hardoon-direct

2 A Right.

3 MR. MACBETH: Let the record reflect that the
4 defendant has been identified.

5 THE COURT: Yes.

6 Q Had you known the rabbi for some time?

7 A Yes.

8 Q How long?

9 A 12 years, 10 years.

10 Q Will you describe the terms on which you knew
11 him?

12 A Very friendly. I had a business about 1968 or '67
13 and he used to be a customer of mine.

14 Q What kind of a business was it?

15 A A bakery.

16 Q Had you seen him from time to time after that?

17 A Yes. I seen him pretty often. It is a small
18 neighborhood, you know, I mean, you see each other very fre-
19 quently.

20 Q What happened after Mr. Brooks told you that he
21 had called the rabbi?

22 A He asked me to drive him to the rabbi.

23 Q Did you do that?

24 A Yes.

25 Q And where was it that you took him?

1 bsbr

D.Hardoon-direct

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2 A To Grand Central Parkway, right off the Grand
3 Central Expressway.

4 Q Was that the rabbi's house or office?

5 A Well, he lived there at the time.

6 Q "he" being Mr. Rosenblatt, is that correct?

7 A Yes, sir.

8 Q What happened when you arrived there?

9 A He asked him to cash a check, or whatever it is,
10 you know, he asked him if he would cash a check for him.

11 Q Were you present throughout the entire conver-
12 sation between Mr. Rosenblatt and Mr. Brooks?

13 A I'll be honest with you, I don't recall. I don't
14 know for sure.

15 Q How much of that conversation do you recall?

16 A I recall the last thing that happened was he told
17 him he'll have to check with his accountant or something
18 like that, he'll have to get back to him, that is all I --
19 you know.

20 Q Did you have a conversation with Brooks after
21 that?

22 A I had a lot of conversations. I don't know
23 which conversation you mean.

24 Q In the course of the following months, did
25 you have further dealings that were concerned with both

bsbr

D.Hardoon-direct

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Brooks and Mr. Rosenblatt?

A Well, I'll tell you, I heard something about checks and that, and I told him I don't want to know anything about it, I don't want to be involved. I don't want to know anything. I am not interested in anything.

You know, I told him that.

Q Did you from time to time carry envelopes from Mr. Rosenblatt to Mr. Brooks or from Mr. Brooks to Mr. Rosenblatt?

A Yes, I did.

Q Did you have any knowledge what was in the envelopes?

A No, not -- not really. A lot of times he would send the mail, to mail from New York also, that he wanted to get the mail out fast or something like that.

Q When you say "he" in this context, you mean Mr. Rosenblatt?

A The rabbi would send mail to Morris to mail out from Manhattan or whatever.

Q Turning your attention toward the end of the year in 1974, around December, did you have a conversation with Mr. Brooks at that time?

A About what?

Q Relative to his dealings with Mr. Rosenblatt

bsbr

D.Hardoon-direct

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1
2 A Well, I'm -- I told the rabbi the same thing,
3 that I don't want to be involved. I don't want to know
4 anything. So it seems to me that Morris told me--

5 MR. GOLDMAN: Objection, your Honor. I object
6 to a conversation not in the presence of this defendant.

7 MR. MACBETH: He is repeating a conversation
8 from a co-conspirator, your Honor. It is perfectly proper.

9 THE COURT: You are asking --

10 MR. MACBETH: I am asking for a conversation
11 with a co-conspirator that is in furtherance of the
12 conspiracy.

13 MR. GOLDMAN: If this conversation --

14 THE COURT: This is a conversation with Morris
15 Brooks?

16 MR. MACBETH: Correct.

17 THE COURT: Overruled.

18 MR. GOLDMAN: May we establish a time frame?
19 I don't think this conversation can be in furtherance of
20 the conspiracy.

21 THE COURT: What time?

22 Q Speaking about December of 1974, is that cor-
23 rect, is that your understanding of the time?

24 A Yes.

25 MR. GOLDMAN: I still object, your Honor, on the

1 bsbr

D. Hardoon-direct

2 basis that it is not in furtherance of the conspiracy.

3 THE COURT: Let me hear the question, the
4 last two questions and answers.

5 (Read.)

6 THE COURT: The objection is overruled.

7 Q Would you continue and tell the jury what it
8 was that Mr. Brooks told you?

9 A Morris told me, well, it is all right, the
10 rabbi told me the same thing, I shouldn't let you know about
11 anything, and I said all right, you know.

12 Q Turning your attention to early 1975, did you
13 have a conversation at that time with Mr. Rosenblatt?

14 A We were over his house, myself and my wife. .
15 I don't recall exactly what was -- whether the secretary
16 didn't show up, there was some kind of problem, we were
17 over there --

18 Q Will you keep your voice up so that everybody
19 can hear you.

20 A We were over there, and someone brought up
21 Morris' name, something that we were talking about,
22 and I said to him "Rabbi, do you think you are doing
23 the right thing? I think something is wrong".

24 So he said to me, "Don't worry. He told me
25 about about it. I know Dali."

bsbr

D.Hardoon-direct

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That was the end of the conversation.

Q Was there any further conversation with Mr. Rosenblatt about that?

A No.

Q Did there come a time when your nephew, Abraham Hardoon was arrested?

A Yes.

Q When was that, approximately?

A I think it was October or September of '74. I am not sure.

Q Did there come a time when he was sentenced in this courthouse?

A Yes.

Q Do you know when that was, approximately?

A About June '75

Q Was that in connection with a \$230,000 check?

A Yes.

Q And when did you first learn where it was that your nephew, Abraham Hardoon obtained that check?

A June '75.

Q Just prior to sentencing?

A Yes.

Q Before that you had no information as to where he had obtained that check?

1 bsbr

D.Hardoon-direct

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2 A Well, nobody said anything about Post Office.
3 They said it was a federal check. So I mean I couldn't
4 figure out it had something to do with Morris.

5 Q And in June '75 where did you discover he had
6 obtained the check from?

7 A It seemed that the officer that was working
8 on the case, the parole officer or --

9 Q Probation officer?

10 A Probation officer just couldn't -- he couldn't
11 buy that he found the check or whatever it is, and he was
12 pressing him to find out where he got it. So then he
13 came out and told the truth.

14 Q Did you speak to Morris Brooks after that?

15 A I gave him, you know, I gave him a good piece
16 of my mind.

17 Q Despite that, have you remained on friendly
18 terms with Morris Brooks after that time?

19 A Morris Brooks is the type of guy that you
20 can't just say "I don't want to know you" in my case,
21 anyway, his kids are always over the house. He couldn't
22 just involve the kids. I can't tell the kids
23 "Get out of here, I don't want to know you because your
24 father is no good". I'm stuck with him more or less, I
25 live across the street, they are very friendly with the

bsbr

D.Hardoon-direct

1 kids, they are always over, they eat over, sleep over, there
2 is no way I could terminate it and say that's it, I don't
3 want to know you. I'm not the only guy. The whole neigh-
4 borhood does him favors. If you don't help him, you know,
5 you look bad. You are just not a good man. You are a --
6 you know.

7
8 MR. MACBETH: I have no further questions of
9 this witness, your Honor.

10 CROSS EXAMINATION

11 BY MR. GOLDMAN:

12 Q Mr. Hardoon, as you have just testified. is it
13 true that in the community and the neighborhood you live if
14 you don't help somebody you are a bad fellow, right?

15 A True.

16 Q With regard to Morris Brooks, people were always
17 doing him favors?

18 A Definitely.

19 Q If you didn't do him a vavor you would be
20 thought ill of by the community?

21 A Well, yes.

T2A.PM

1

jpjb 1

Hardoon - cross

2

Q Mr. Hardoon, when Morris Brooks came to you for

3

the first time with a check, do you remember if he came

4

with one or two checks?

5

A One check.

6

Q You don't recall -- do you recall how much the

7

check was for?

8

A \$5,500, something like that.

9

Q You did not see a second check on the same day?

10

A No.

11

Q Did he tell you where he had gotten the check?

12

A He said, well, if you know Morris, he's divorced.

13

He goes out with woman, he said the lady loaned it to him.

14

It was perfectly an honest excuse to me.

15

Q You saw nothing wrong with that excuse -- he

16

showed you the check, did he not?

17

A Yes.

18

Q It was in fact a government check?

19

A Yes.

20

Q Did you ask him how would somebody lend you the

21

money like that, why would they lend it to you?

22

A His personal affairs are nothing to me. If he

23

happens to have a girl friend who lend him the money, that's

24

his business.

25

Q Did you ask him why they would lend it to him,

1 jpjb 2

Hardoon - cross

2 after all, the check goes back to the government.

3 A Being I wasn't cashing it for him, I saw no
4 further reason to go into it and find out why and who and
5 where.

6 Q You just accepted whatever story he gave you?

7 MR. MacBETH: Objection. It calls for the mental
8 process of the witness.

9 THE COURT: Yes, sustained.

10 Q Now, after you told him that you couldn't cash
11 the check, at that same conversation, was there any conver-
12 sation about going to the Rabbi?

13 A No. Not me telling him to go to the Rabbi, that's
14 for sure.

15 Q At that time did he ask you did you think it
16 would be all right if he would go to the Rabbi?

17 A Knowing the Rabbi as well as I knew him, I didn't
18 think he was in the position to cash the check.

19 Q What I'm asking you, Mr. Hardoon, at that very
20 first conversation when Mr. Brooks comes to you and he
21 asks you to cash the check and you say you can't in that
22 conversation, does he then ask you do you think it would
23 be okay if I ask the Rabbi?

24 A No, he didn't ask me that. The next conversation
25 was he called the Rabbi and he was going down to see him.

1 jpjb 3

Hardoon - cross

2 Q Are you saying he never asked you first?

3 A Are you asking me if he asked me if it was all
4 right to call the Rabbi? Why would he ask me to call
5 the Rabbi? I'm not the Rabbi's spokesman.

6 Q Mr. Hardoon, do you recall making a statement
7 to Inspector Krusula on January 8, 1976?

8 A What statement?

9 Q Well, do you recall being interviewed by Inspector
10 Krusula on January 8, 1976?

11 A Yes.

12 Q The interview was before whatever you might know
13 or not know about this business with the check cashing?

14 A Right.

15 Q During the course of that interview, did you in
16 fact tell Inspector Krusula that after you said that you
17 couldn't cash the check that Brooks asked you, do you
18 think I would ask the Rabbi and you said you didn't see
19 any reason why not?

20 A No. Not in the exact words you are saying it.
21 He may have asked me and I said, well, go ahead, I don't
22 care. You know, it's got nothing to do with me.

23 Q Are you saying that it is possible on that first
24 conversation that Brooks in fact asked you if it was all
25 right to call the Rabbi?

1 jpjb 4

Hardoon - cross

2 A I'm saying that he didn't ask me if it was all
3 right to call the Rabbi.

4 Q Now, I'm asking you just so we are clear, did
5 you ever tell Inspector Krusula that at that time Brooks
6 asked you, do you think I could ask the Rabbi and you said
7 you could see no reason why not?

8 A You are asking me about something that happened
9 six months ago or seven months ago and I'm really not
10 sure what I said to him exactly. The whole thing was
11 like a story. I didn't sit down and testify to everything
12 exactly word by word.

13 Q Now, you testified that you drove Mr. Brooks
14 to the Rabbi's house.

15 A Right.

16 Q Do you recall when that was?

17 A I think it was the next day or a day later,
18 something like that, when he called me.

19 Q Do you recall being present when Mr. Brooks spoke
20 to the Rabbi?

21 A I may have been there or in the next room or
22 talking to the secretary, I'm not sure.

23 Q You have no recollection of whether you were there
24 or not?

25 A The exact recollection, no.

1 jpjb 5

Hardoon - cross

2 Q Well, were you present when Mr. Brooks told
3 the Rabbi he had a check he'd like cashed?

4 A That he had already told him on the telephone
5 and that's why he was going down.

6 Q What conversation did you hear while you were
7 there?

8 A The only thing I can remember is he told him he
9 would have to speak to his accountant and he'll get back
10 to him. That's all I remember.

11 Q Did you at any time hear Morris Brooks say that
12 these are people looking to evade taxes?

13 A No.

14 Q Did you at any time hear any conversation that
15 the Rabbi ~~had~~ to have 10 per cent before he would cash
16 the checks?

17 A That, I don't know who I heard from.

18 Q I'm asking you, did you hear it on that morning
19 when you drove Morris Brooks to the Rabbi's nouse and you
20 were there?

21 A No, no question of 10 per cent or anything.

22 Q This place that the Rabbi lived was in fact a
23 synagogue?

24 A Yes, downstairs was the synagogue.

25 Q He lived over the synagogue?

1 jpjb 6

Hardoon - cross

2 A Yes.

3 Q Where you went to was the synogogue and the
4 office there?

5 A Well, there's the office and the synogogue.

6 Q Now, from time to time, Mr. Hardoon, you would
7 testify that you would take envelopes from Morris Brooks
8 to the Rabbi and envelopes from the Rabbi back. Did
9 you know what was in those envelopes?

10 A No.

11 Q Did you ever ask Morris Brooks what was in these
12 envelopes?

13 A No.

14 Q Did you at any time learn that you were carrying
15 currency back and forth?

16 A I had an idea it could be currency but I was
17 not sure.

18 Q Did you ask Mr. Brooks?

19 A What?

20 Q Did you ask Mr. Brooks, what is this I'm carry-
21 ing around?

22 A If I didn't want to get involved, I didn't ask.

23 Q If you didn't want to get involved, why are you
24 carrying envelopes back and forth?

25 A That's what the whole reason why I'm here.

1 jpjb 7

Hardoon - cross

2 Because I happen to be a good boy. You know, if some-
3 body calls me up and says do them a favor, I do it. I
4 don't ask questions. I helped the Rabbi a lot of times
5 and he never paid me for it. Hours, I gave him.

6 Q What you are saying --

7 A Not because I was getting anything out of it,
8 nothing.

9 Q What you are saying, Mr. Hardoon, in your be-
10 lief in your community and in your circle, if somebody
11 asked you to do a favor, you do it and you don't ask
12 questions, right?

13 A Right.

14 Q Did there ever come a time, Mr. Hardoon, when
15 you went to the bank with Mr. Brooks and the Rabbi while
16 these checks were being cashed?

17 A Did I go into the bank?

18 Q I asked you first, did you go to the bank?

19 A To the bank, I may have drove them to the bank
20 or dropped them at the bank.

21 Q Did you ever wait outside for them while they
22 were inside?

23 A I don't remember. I don't think so because
24 Brooks lives not far away from the bank.

25 Q On how many occasions would you say you drove

1 jpjb 8

Hardoon - cross

2 Mr. Brooks to the bank?

3 A Mr. Brooks to the bank? I never did. I never
4 drove Mr. Brooks to the bank.

5 Q Did you drive the Rabbi to the bank?

6 A Sometimes. He had to make other deposits.
7 Not only that he had business with Brooks. That's not
8 the only business he has.

9 Q Did you ever drive him to the bank on any days
10 when Morris Brooks was there and a check was being
11 delivered?

12 A It's possible.

13 Q You can't recall or you can't be specific?

14 A I can't tell you the exact day or date or hour,
15 no.

16 Q Now, at any time, did you have any further con-
17 versation with Morris Brooks about any checks that he
18 was cashing or asking the Rabbi to cash?

19 A No.

20 Q So, you didn't know after that first or second
21 time that in fact Morris Brooks was cashing any checks
22 with the Rabbi, did you?

23 A Well, when you want to know how it felt, what
24 I thought or what I knew for 100 per cent?

25 Q I am asking you what you know from 100 per cent.

1 jpjb 9

Hardoon - cross

2 A What I know from 100 per cent, I couldn't really
3 say but there was a feeling like in the air that something
4 was going on.

5 Q You say you had a conversation with the Rabbi
6 about it on one occasion. Can you tell me when that
7 conversation was?

8 A When?

9 Q When.

10 A Towards the end of the year, 1975.

11 Q 1974 or '75?

12 A It had to be '74. '74.

13 Q Is it December of 1974?

14 A December, January, I can't tell you the exact
15 date or day.

16 Q The closest you can come is December or January
17 of '74?

18 A Sometime around that time.

19 Q '74 you say, I just want to make sure of that,
20 1974, right?

21 A '74.

22 MR. MacBETH: I assume that January refers to
23 1975?

24 A January '75, December of '74. I don't know
25 what you are looking for.

1 jpjb 10

Hardoon - cross

2 Q January of '75 or December of '74, within that
3 period?

4 A Right.

5 Q That's when you had a conversation with the
6 Rabbi?

7 A Right.

8 Q Do you have any recollection or can you possibly
9 relate anything to whether or not it was December or January?

10 A I don't remember. I was there with my wife and
11 either he was taking care of the kids or feeding the kids,
12 something, I don't know whether the maid didn't show up,
13 I don't know. I know I was over there with my wife.

14 Q As I say, Mr. Hardoon, if you could, and I know
15 I'm asking you to exhaust your recollection in this matter,
16 to pin down as closely as you can when this conversation
17 took place.

18 A I honestly can't tell you.

19 Q Before or after New Year's, does that ring a
20 bell?

21 A What?

22 Q Before or after New Year's, does that ring a
23 bell?

24 A I'll be honest with you, I just don't know for
25 sure. I wish I knew. I'd tell you.

1 jpjb 11

Hardoon - cross

2 Q Now, the conversation you say you had, you said
3 to the Rabbi you thought something was wrong, right?

4 What did the Rabbi say?

5 A He says, he told me, it's all right, I know
6 Dali.

7 Q Is that all he said?

8 A That's all he said and the case was closed.

9 (Continued on next page.)
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Hardoon - cross

2 Q There was nothing else you said to him?

3 A Nothing.

4 Q Did you tell him what you thought was wrong?

5 A Somehow it didn't feel right to me. That's
6 all I can tell you. I don't know how the rabbi felt about
7 it, but to me it just d'nd't feel right.

8 Q Did you tell the rabbi what it was that you
9 didn't feel right about?

10 You were trying to help him, weren't you?

11 A Yes, I always tired to help him.

12 Q Did you tell him what it was you felt about?

13 A He closed the case. I said if the guy is
14 paying you to cash the check, something must be wrong.
15 There's so many banks in the city, why go to the rabbi?

16 Q He says, "I know Dolly." What did that mean
17 to you?

18 A To me it didn't mean anything, no.

19 Q So, based on that answer, you didn't even
20 know if he knew what you were talking about?

21 A No. Maybe he knew somebody I didn't
22 know. I didn't know who Dolly was.

23 Q You have no --

24 A I still don't know who Dolly is.

25 Q You have no other recollection of any other

1 ja ja 2 Hardoon - cross
2 conversation that you had with the rabbi about it?

3 A No.

4 Q Did you ever speak to Morris Brooks and
5 convey to him that maybe something was wrong, maybe he
6 wasn't doing the right thing, maybe he was getting the
7 rabbi involved in something?

8 A Well, I tell you, Morris Brooks tells you so
9 many stories. I didn't know what to believe and what
10 not to believe.

11 If I were to say something to Morris Brooks
12 and maybe the check wasn't what I thought it was, I'd look
13 like a fool. So I minded my own business.

14 MR. GOLDMAN: Excuse me, your Honor.

15 (Pause)

16 Q Mr. Hardoon, when for the first time did you
17 learn that your nephew Abe had been arrested or was in
18 trouble in connection with trying to cash a government
19 check?

20 A The day he got arrested.

21 Q Was that in April of 1975?

22 A No. I think it was later than that.

23 Q Do you have a specific recollection of
24 when it was that he was arrested?

25 A Maybe October. I'm not sure. That's

jp ja 3 Hardoon - cross

'74. It's not '75.

Q I'm asking you if you have a recollection of whether it was April of 1975.

A April '75?

Q Yes.

A No, it's not April of '75.

MR. GOLDMAN: Your Honor, I have a copy of an official record, and I'm not going to refer to it here in this trial, but I would ask the government to stipulate that Abraham Hardoon was arraigned in April of 1975.

MR. MACBETH: The government would stipulate that he was arrested on October 2, 1974, and he did plead in April of 1975.

Mr. Goldman is perfectly correct on that.

MR. GOLDMAN: When was he arrested?

MR. MACBETH: October of 1974.

Q You say you learned then in October of 1974, which was the day he was arrested, that he was in trouble with a check for \$230,000; is that right?

A Yes.

THE COURT: Please answer orally.

A Yes.

Q Did you learn where he had gotten the check?

A I learned exactly what he had told authorities,

1 jp ja 4 Hardoon - cross

2 that he had found it.

3 Q Did you ask him where he found it, how he found
4 it, what happened?

5 A He said he found it in the street.

6 Q Did he tell you that he had gotten it from
7 Morris Brooks?

8 A Did he tell me? No.

9 Q Did you ask him?

10 A Did I ask him what?

11 Q If he had gotten it from Morris Brooks?

12 A Why would I say to him, "You got it from Morris
13 Brooks?"

14 Q You know Morris Brooks was coming around looking
15 to get government checks cashed. Did it ever occur to
16 you that he had some connection?

17 A This was something altogether different. They
18 were talking about quarter million of a dollars, and
19 Morris Brooks had \$5,000. Anybody coming out with
20 a check, I would ask him if he got it from Morris Brooks
21 now?

22 Q Your nephew did not tell you the truth about the
23 check?

24 A No.

25 Q When did you actually learn where he got the

1 12 3a 0 Hardoon - cross

2 check from?

3 A In June.

4 Q Of what year?

5 A '75.

6 Q After that, you confronted Morris Brooks?

7 A Yes.

8 Q Were you angry at him?

9 A Very angry.

10 Q He had implicated your nephew in this business,
11 right?

12 THE COURT: Answer orally.

13 A Yes.

14 Q Were you aware, Mr. Hardoon, that both your
15 nephew and Morris Brooks were represented by the same
16 attorney?

17 MR. MACBETH: Objection, your Honor.

18 THE COURT: Sustained.

19 Did you pay either of the legal fees?

20 MR. MACBETH: Objection, your Honor.

21 THE COURT: Well, I didn't hear the question.

22 MR. MACBETH: Could we have it at the side bar?

23 THE COURT: Yes.

24 (At the side bar)

25 THE COURT: What is the question?

1 jp ja 6

Hardoon - cross

2 (Record read)

3 MR. GOLDMAN: The offer of proof is that
4 this gentleman paid both the legal fees for Abe Hardoon
5 and Morris Brooks, and they both were represented by the
6 same attorney, and he paid legal fees for Morris Brooks
7 after learning that Morris Brooks was the person who had
8 given the check to his nephew for \$230,000.

9 THE COURT: You say you have proof of that.

10 MR. GOLDMAN: I have reason to believe it.

11 MR. MACBETH: Let him go ahead and ask the
12 question.

13 I withdraw my objection.

14 (Open court)

15 CROSS-EXAMINATION (Continued)

16 BY MR. GOLDMAN:

17 Q Mr. Hardoon, did you contribute or give
18 Abraham Hardoon or Morris Brooks any money to pay for
19 his attorney?

20 MR. MACBETH: Could we take it one at a time?

21 THE COURT: Yes.

22 Q Did you give Morris Brooks money to pay for
23 his attorney?

24 A No.

25 Q Was Morris Brooks represented by the same

1 jp ja 7 Hardoon - cross

2 attorney that your nephew was?

3 MR. MACBETH: Objection. Utterly irrelevant.

4 THE COURT: I thought you were going to ask
5 him a different question.

6 MR. GOLDMAN: I will get to it in a minute.

7 THE WITNESS: What was the question?

8 Q Were your nephew Abraham Hardoon and Morris
9 Brooks represented by the same firm of attorneys?

10 A Yes.

11 Q They were. Do you know how Morris Brooks
12 got to the same attorney that represented your nephew?

13 A I could tell you the whole story.

14 Q I'm just asking you, did you refer them to the
15 attorneys?

16 A I'll tell you what happened; how he got to those
17 attorneys. Is that what you wanted to know?

18 Q Did you refer him to those attorneys?

19 A I called up the attorney for him, if that's
20 what you want to know. But you want to hear the rest of
21 it?

22 Q You called up the attorneys to represent
23 Morris Brooks after knowing that Morris Brooks had given
24 your nephew a check for \$230,000 for which he was arrested
25 and at a time when you say you were enraged for doing it?

1 jp ja 8 Hardoon

2 A Yes.

3 Q Thank you.

4 In fact, Mr. Hardoon, subsequently in January
5 of 1976, Abe was married?

6 A Yes.

7 Q Morris Brooks was there?

8 A Yes, so was the rabbi.

9 Q Does Morris Brooks presently work for you in
10 any capacity?

11 A No. He makes pens, I think. He puts together
12 pens.

13 Q Does he work for you at all in any capacity?

14 A No, sir.

15 Q Does he serve in any organizations in which
16 you are a member?

17 A No.

18 Q Does he participate in any activities --

19 A He used to.

20 Q I'm talking about now.

21 A No.

22 Q When was the last time that he did that?

23 A About a year and a half ago. Maybe a year ago.
24 I'm not sure.

25 Q Are you engaged in any business ventures with

1 jp ja 9 Hardoon - redirect

2 him?

3 A Business ventures?

4 Q Yes.

5 A No.

6 MR. GOLDMAN: I have no further questions.

7 MR. MACBETH: May I proceed, your Honor?

8 THE COURT: Do you have redirect?

9 MR. MACBETH: Yes.

10 REDIRECT EXAMINATION

11 BY MR. MACBETH:

12 Q Mr. Hardoon, would you explain to the jury
13 the circumstances under which you called the attorney
14 for Mr. Brooks?

15 A Mr. Brooks was helping out the school at the
16 bingo game when he was picked up by the inspectors.
17 So, I got a call that night that he was picked up but the
18 kids were over my house. You see, his kids, he's got young
19 kids, and they ate over the house, and they were at my
20 house.

21 One of the people in the community was supposed
22 to get him a lawyer for the next morning. Then all of a
23 sudden, I got a call about eleven o'clock in the morning
24 from that same guy.

25 He said, "What happened with him?"

1 jp ja 10 Hardoon - redirect

2 I said, "What do you mean? You were supposed
3 to get him a lawyer."

4 He said, "Somebody was supposed to go down and
5 he couldn't make it." So he -- he said, "Give him a
6 lawyer."

7 The only lawyer I knew was the lawyer that Abie
8 has. So I called him up and told him to see what he could
9 do for him.

10 Q Did Abraham Hardoon at any time, to your
11 knowledge, work for Mr. Rosenblatt?

12 A Yes, at one time or another, yes.

13 Q Did you ever have a conversation with
14 Mr. Rosenblatt about Abraham Hardoon?

15 MR. GOLDMAN: Objection, your Honor.
16 This is wholly outside this matter, and it is wholly outside
17 the presence of this witness, and it has nothing to do with
18 the case involving Mr. Hardoon that's been gone into.
19 It is purely collateral and highly objectionable.

20 THE COURT: Approach the side bench.

21 (At the side bar.)

22 MR. MACBETH: The consistent line that the
23 defense is trying to take here is that both Brooks and
24 David Hardoon knew about Abraham Hardoon's character.
25 That way they were warned of the way in which he behaved

jp ja ll Hardoon - redirect

and his association with them is a reflection on them.

What Mr. Hardoon will testify to is that he also told Mr. Rosenblatt that he did not think Rosenblatt should continue to keep Abraham Hardoon employed.

I think that demonstrates that Mr. Hardoon at all times had been perfectly frank and open with everybody, including Mr. Rosenblatt, about Abraham Hardoon's character, and it goes to the negative implication that the defense is trying to bring up that Abraham Hardoon is his nephew and knew what he was doing.

That is what the defense has been trying to do through this examination and throughout the day.

MR. GOLDMAN: I don't think this goes on to anything that went on before.

THE COURT: As I understand it, the government's counsel suggests that this is testimony to rebut the inference that the witness knew about or was somehow involved in the present charges.

MR. GOLDMAN: No, I don't believe that is true at all.

Mr. Macbeth is saying that Mr. Hardoon called Rabbi Rosenblatt and told him not to employ Abraham.

MR. MACBETH: He had employed Abraham Hardoon,

1 jp ja 12 Hardoon - redirect
2 and David Hardoon told Rabbi Rosenblatt he shouldn't
3 continue to employ Abraham Hardoon.

4 THE COURT: Did he give him a reason?

5 MR. MACBETH: In general terms, and I can't
6 state exactly, but essentially he didn't trust him. And
7 the inference the defense is trying to establish through
8 the fact that their being uncle and nephew somehow David
9 Hardoon was involved with Abraham Hardoon, and he is
10 tainted by that.

11 That is exactly what Mr. Goldman made a big point
12 of this morning, that he was trying to bring out. This
13 goes directly to it and rebuts it.

14 MR. GOLDMAN: This doesn't do it. He can't,
15 state specifically what it was.

16 MR. MACBETH: We can get his answer over here
17 out of the hearing of the jury.

18 I talked to him very briefly at the lunch
19 hour --

20 MR. GOLDMAN: Abraham Hardoon is running his
21 business for him, his bingo games.

22 THE COURT: Who is?

23 MR. GOLDMAN: Abraham Hardoon is running David
24 Hardoon's bingo business. I should be able to go into
25 that if you bring in this conversation.

1 jp ja 13 Hardoon - redirect

2 MR. MACBETH: Well, he may be able to answer
3 that. I don't know what would come of that and what
4 questions would that develop.

5 If you want to ask him whether Abraham Hardoon
6 is employed by him, since this whole area has been opened

7 MR. GOLDMAN: I think the whole bingo area
8 is something that I didn't go into. If you want to open
9 it up, go ahead. I am keeping it limited.

10 THE COURT: What do you say?

11 MR. MACBETH: I would like to ask him this
12 question.

13 THE COURT: All right.

14 (In open court)

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(Continued on next page

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1 bsbr 1 D.Hardoon-redirect

3a pm

2 (Question read.)

3 Q Did you?

4 A About exact what?

5 Q About his -- Mr. Rosenblatt's employment of
6 Abraham Hardoon.

7 A Abey used to do some work for him. I had a
8 feeling, strong feeling, that he was ripping him, and I
9 told the bbi to let him go, because I don't think he's
10 giving him a fair deal, or whatever.

11 Q When you say he was ripping him --

12 A I told him to fire my nephew, because my nephew
13 was ripping him off somehow.

14 MR. MACBETH: I have no further questions.

15 RECROSS EXAMINATION

16 BY MR. GOLDMAN:

17 Q Mr.Hardoon, since the date of that conversation,
18 has your nephew ever worked for you?

19 A My nephew ever worked for me? No.

20 Q Has he ever run any activities that you have
21 been in charge of?

22 A Well, sometimes if I am stuck and I have to
23 use him, I use him. But, you see, it's very difficult,
24 whether you are there and you see what's happening, or
25 if you are not there and you leave it up to him to do it.

1 bsbr

D.Hardoon-recross

2 It is two different things.

3 MR. GOLDMAN: I have no further questions.

4 THE COURT: Anything further? If not, the
5 witness may come down.

6 Thank you.

7 (Witness excused.

8 THE COURT: Next witness.

9 MR. MACBETH: The government calls Irving
10 Fischer.

11 I R V I N G F I S C H E R, called as a witness by
12 the government having been first duly sworn, testified
13 as follows:

14 MR. MACBETH: May I proceed, your Honor.

15 THE COURT: Yes.

16 DIRECT EXAMINATION

17 BY MR. MACBETH:

18 Q Mr. Fischer, how are you employed?

19 A H.L. Dalis, Inc.

20 Q What is your position with H.L. Dalis?

21 A General manager, vice president.

22 Q How long have you been with H.L. Dalis?

23 A Since 1962.

24 Q What is the --

25 MR. GOLDMAN: Excuse me, your Honor, if this is a

1 bsbr Fischer-direct

2 gentleman from H.L. Dalis to say that he never received these
3 checks, I can stipulate to that.

4 MR. MACBETH: There is some further testimony,
5 your Honor.

6 Q What are your duties and responsibilities at
7 H.L. Dalis?

8 A Every day running of the business.

9 Q Has H.L. Dalis been a vendor to the Post
10 Office?

11 A On occasion, yes.

12 Q Now, is there in fact someone named H.L. Dalis?

13 A Yes, Harry L. Dalis. He is deceased.

14 Q When did Mr. Dalis die?

15 A June of last year.

16 Q To your knowledge, has the H.L. Dalis Company
17 ever had any dealings with Elyakim Rosenblatt?

18 A No.

19 MR. MACBETH: Finally, if the defense will
20 stipulate that the Dalis firm never received these four
21 checks, or authorized anyone to negotiate them, we have
22 no further questions of this witness.

23 MR. GOLDMAN: Absolutely. I have one
24 question.

bsbr

Fischer-cross -redirect

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CROSS EXAMINATION

BY MR. GOLDMAN:

Q The full name is H.L. Dalis, Inc.?

A That is correct.

MR. GOLDMAN: Thank you. I have no further questions.

REDIRECT EXAMINATION

BY MR. MACBETH:

Q Does the company from time to time receive checks or other mail simply addressed to H.L. Dalis?

A Oh, yes.

MR. MACBETH: No further questions, your Honor.

MR. GOLDMAN: I have no further questions.

THE COURT: Thank you. You may come down.

Next witness.

(Witness excused.)

MR. MACBETH: The government calls Matthew Rankel, your Honor.

bsbr

Rankel-direct

M A T T H E W R A N K E L, called as a witness on
behalf of the government, having been first
duly sworn, testified as follows:

MR. MACBETH: May I proceed, your Honor?

THE COURT: Yes, you may.

DIRECT EXAMINATION

BY MR. MACBETH"

Q Mr. Rankel, how are you employed?

A I am employed by the Chase Manhattan Bank.

Q Which branch of the Chase Manhattan Bank are
you at?

A Kew Gardens.

Q How long have you been with the Chase Manhattan
Bank?

A A total of 48 years.

Q How long have you been at the Kew Gardens
branch?

A About eight years.

Q What is the address of the Kew Gardens branch?

A The address of the branch?

Q Yes.

A 8135 Lefferts Boulevard. That's in Kew Gardens.

Q What is your position in that branch?

A I am the assistant treasurer.

1 bsbr

Rankel-direct

2 Q Could you describe the duties that you have in
3 that branch?

4 A I manage the branch. I am in charge of the
5 branch.

6 Q Are you familiar with the practices of the bank
7 in a matter such as the manner in which accounts are opened,
8 deposit slips are retained, check records and ledger sheets
9 are maintained?

10 A Yes, I am.

11 Q Mr. Rankel, you have before you what have
12 been marked Government Exhibits 28 and 42 for identification,
13 is that correct?

14 A That is right.

15 Q Can you recognize those?

16 A I do.

17 Q Are they signature cards that are made out when
18 an account is opened in the bank?

19 A That's right.

20 Q And does the bank in the regular course of
21 business keep such cards when accounts are opened?

22 A We do.

23 Q And is it the regular practice of the bank to retain
24 those cards?

25

bsbr

Rankel-direct

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A It is.

Q And are such signature cards made out at the time that an account is opened?

A They are.

MR. MACBETH: The government offers 28 and 42 in evidence, your Honor.

MR. GOLDMAN: No objection, your Honor.

THE COURT: All right. Government's Exhibits 28 and 42 received.

(Government's Exhibits 28 and 42 were received in evidence.)

MR. MACBETH: May I describe these two exhibits to the jury, your Honor?

THE COURT: All right.

MR. MACBETH: Showing you first Government's Exhibit 28. It is a regular checking account with an authorized signature, and it is for the Rabinical College of Queens, Yeshiva Casatorah, and the name of the signatory is Rabbi Elyakim G. Rosenblatt, his title is Dean, and then a specimen signature.

Then showing you Government's Exhibit 42, it is -- the title of the account is Rosenblatt, Elyakim, Rabbi, and Mrs. Rosenblatt, and then the approved signatures appear on the line marked A & B, Rabbi Elyakim G. Rosenblatt

bsbr

Rankel-direct

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and Thelmatroni Rosenblatt.

Q Mr. Rankel, I show you what have been marked Government Exhibits 29 and 40 for identification. Can you identify these two items?

A Those are copies of the statements of each respective account.

Q Are those called ledger sheets by the bank?

A That is right.

Q In the regular course of its business does the bank draw up such ledger sheets showing the activity of the account on a monthly basis?

A They do.

Q And it is part of the regular business of the bank to draw up such ledger sheets?

A It is.

Q And are they drawn up at or about the time that deposits or withdrawals are made from the account?

A They are done sometimes on a monthly basis and sometimes on a cycle basis.

Q Can you tell us on what basis the two in front of you were drawn up?

A The Rabbinical College of Queens, that was on a monthly basis, the calendar month that is, and the other one is on a cycle basis.

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Rankel-direct

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Q Is it a monthly cycle?

A Roughly 12 -- yes, four weeks, approximately.

MR. MACBETH: The governemnt offers 29 and
40 in evidence.

MR.GOLDMAN: I have no objection, your Honor.

(Continued on next page.)

Rankel - direct

bs ja 1

(Government's Exhibits 29 and 40 receivee

in evidence)

MR. MACBETH: May I point out parts of these exhibits to the jury, your Honor?

THE COURT: Yes.

MR. GOLDMAN: Your Honor, I think the exhibits speak for themselves. Possibly on summation it would be more appropriate.

MR. MACBETH: If I have to return to the documents through the summation, it would slow things down. It is really quite quick to let the jury understand the significance of what is a business record that they otherwise don't see at this time. Unless, of course, the defense would like to have the entire document passed around to the jury.

THE COURT: You have something to point out on each one, is that it?

MR. MACBETH: Yes.

THE COURT: All right.

MR. MACBETH: Drawing your attention first to Government's Exhibit 40:

This is the bank account of -- personal bank account of Rabbi Elyakim Rosenblat or Thelma Trani Rosenblatt, and this reflects the period of July 1974,

1 bs ja 2

Rankel - direct

2 and it shows on July 15, 1974 a \$10,000 deposit into that
3 personal account.

4 Then on July 16, 1974, a \$9,000 withdrawal
5 from that personal account.

6 Then, turning your attention to Government's
7 Exhibit 29, this is for the account of the Rabbinical
8 College of Queens, and that shows the period of March 1975,
9 which shows on March 18, 1975 a \$32,000 deposit, and on
10 March 20th, a \$31,000 withdrawal.

11 BY MR. MACBETH:

12 Q Mr. Rankel, you have in front of you Government
13 Exhibits for identification 30 to 35 and 43; is that
14 correct?

15 A That's right.

16 Q Can you identify what those items are?

17 A Those are deposit tickets.

18 Q In the regular course of business, does the
19 bank retain deposit slips which a company deposits into the
20 accounts of the bank?

21 A These are used to make deposits into the
22 account, yes.

23 Q And is it the regular practice of the bank
24 to retain those slips?

25 A Yes, it is.

1 bs ja 3 Rankel - direct

2 Q And are such deposit slips turned over to the
3 bank at or about the time the deposit is made?

4 A They are.

5 MR. MACBETH: The Government offers 30 to
6 35 and 43 in evidence.

7 MR. GOLDMAN: Can I look at them?

8 THE COURT: Would you call those numbers
9 again?

10 MR. MACBETH: 30 to 35 and 43.

11 MR. GOLDMAN: No objection.

12 THE COURT: All right, Government's Exhibits
13 30 through 35 and 43 received.

* * *

14 (Government's Exhibits 30 through 35 and 43.
15 received in evidence.)

16 MR. MACBETH: May I point out one itme on one
17 of these deposit tickets, your Honor?

18 THE COURT: All right.

19 MR. MACBETH: I draw your attention to
20 Government's Exhibit 43, which is a deposit slip under the
21 account of -- personal account of Rabbi Elyakim T.
22 Rosenblatt, dated July 15, 1974, and it shows a total
23 deposit of \$10,000 being one check of \$5500 and one check
24 of \$4500.

25

1 bs ja 4 Rankel - direct

2 BY MR. MACBETH:

3 Q Mr. Rankel, you now have before you, do you not,
4 Government's Exhibits 36 through 39 for identification?

5 A That's right.

6 Q Can you identify those items?

7 A Those are duplicates -- bank records of official
8 checks that were drawn.

9 Q Do they -- can you further identify it by any
10 mark that you made on it at any time?

11 A My initial is in the lower right-hand corner.

12 Q And so it will be clear, those are bank coies
13 of -- carbon copies of official checks that are issued by
14 the bank?

15 A That's right.

16 MR. MACBETH: The Government offers 36 through
17 39 in evidence.

18 MR. GOLDMAN: No objection.

19 THE COURT: All right. Government's Exhibits
20 36 through 39 received.

21 (Government's Exhibits 36 through 39 received
22 in evidence.)

23 Q Mr. Rankel, I show you what has been marked
24 Government's Exhibit 41 for identification.

25 Do you recognize that?

* * *

1 bs ja 5 Rankel - direct

2 A Yes, I do.

3 Q Is that a copy of a check which came to the
4 Chase Manhattan Bank?

5 A Yes, it is.

6 Q And is it the regular practice of the Chase
7 Manhattan Bank to retain copies of such checks?

8 A We do.

9 Q And is a copy made at or about the time that
10 the check is received by the bank?

11 A It would be made the same day.

12 MR. MACBETH: The Government offers 41 in
13 evidence.

14 MR. GOLDMAN: No objection, your HONOR.

15 (Government's Exhibit 41 received in
16 evidence.)

17 Q Mr. Rankel, that is a check, is it not, made
18 out to Elyakim Rosenblatt and signed Elyakim Rosenblatt;
19 is that correct?

20 A It is made out to Rabbi E. Rosenblatt and signed
21 by him.

22 Q And endorsed by --

23 A By the rabbi.

24 Q Does that effectively make out a check for
25 cash?

1 bs ja 6 Rankel - direct

2 A Yes, it does.

3 MR. MACBETH: From Exhibit 41, ladies and
4 gentlemen of the jury, the check which Mr. Rankel just
5 looked at, it is dated July 16, 1974, and it is for
6 \$9,000.

7 Q Mr. Rankel, I am showing you Government's
8 Exhibits 12, 15, 21, 22, 23, 26 and 27.

9 Would you look at those and see whether you can
10 identify them by your initials on the documents?

11 A Those are my initials.

12 Q Now, those are all checks, are they not, made
13 out to Morris Brooks and signed by Mr. Rosenblatt?

14 A That's right.

15 Q Can you recall the times at which you initialed
16 those checks?

17 A Those are my initials. I don't recall exactly
18 when.

19 Q Do you recall on one or more of those occasions
20 when you initialed those checks having conversations with
21 Mr. Rosenblatt or with Mr. Brooks?

22 A With the rabbi, I would say yes.

23 Q Could you tell the jury what the first
24 such conversation is that you remember?

25 A Well, in cashing the checks I would suggest to

1 bs ja 7 Rankel - direct
2 him that it was a lot of cash to take at one time. I
3 suggested possibly some other way of handling it.

4 Q What did Mr. Brooks or Mr. Rosenblatt say to
5 you in response to that?

6 A He said it would be all right to cash them.

7 Q And how much cash does the Kew Gardens branch
8 of the Chase Manhattan Bank typically have on hand?

9 A Well, I can't give you anything definite, but
10 we would not have this much cash available if it was
11 large bills that was requested.

12 Q Did you in fact cash the checks-- provide
13 cash in return for those checks on various days in 1974
14 and 1975?

15 A I didn't quite get the question.

16 Q Did you in fact provide cash in return for those
17 checks on particular days in 1974 and 1975?

18 A It's possible that we may have had some cash.
19 If not, then I would suggest possibly an official check for
20 the difference, until we could order more cash.

21 Q So that on some occasions in return for those
22 checks you provided official checks and at other times you
23 provided cash?

24 A That's right.

25 Q Now, when you provided cash, where was that

1 bs ja 8 Rankel - direct
2 done?

3 A I did that in the conference room in the safe
4 deposit area.

5 Q And to whom would you turn over the cash?

6 A I turned it over to the rabbi.

7 Q From time to time, before Mr. Rosenblatt came
8 in to obtain cash in return for those checks, did you
9 have telephone conversations with him?

10 A I don't recall any.

11 Q Do you recall any further conversations that
12 you had at the times when you provided cash or official
13 checks to Mr. Rosenblatt and Mr. Brooks?

14 A I would caution him about carrying that much
15 cash out of the bank.

16 Q Anything further, any other conversations or
17 discussions that you had with either Mr. Rosenblatt or
18 Mr. Books?

19 A Not that I recall, no.

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21 (Continued on next page)
22
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jp ja 1 Rankel - direct

Q Mr. Rankel, I show you what's been marked as
Government's Exhibit 44 for identification.

Can you identify that?

A Yes, I can.

Q What is it?

A That's a visitation record of visits made to
the safe deposit box. Each time that the person comes in,
it is noted on here. It's stamped on here when they come
in.

Q Is it the practice of the bank to maintain such
visitation records?

A Yes, it is.

Q They are kept in the regular course of the
bank's business?

A Yes, it is.

Q Are the notations on that card made out on or
about the time that visits are in fact made to the safe
deposit box?

A Possibly the same day or the following day.

MR. MACBETH: The Government offers Government's
Exhibit 44 in evidence.

MR. GOLDMAN: No objection, your Honor.

(Government's Exhibit 44 was received in
evidence.)

* * *

1 jp ja 2 Rankel - direct

2 MR. MACBETH: I show the jury Government's
3 Exhibit 44, which is a visitation record for the safe
4 deposit box for Elyakim G. Rosenblatt, showing visits to the
5 safety deposit box on May 2, 1975, May 8th --

6 MR. GOLDMAN: Your Honor, I think he should
7 read all the dates, if he is going to read just the dates,
8 otherwise he is summing up.

9 MR. MACBETH: I would be happy to pass the
10 card to the jury.

11 THE COURT: Again, suppose we do that in
12 summation.

13 MR. MACBETH: It could be done on summation.

14 BY MR. MACBETH:

15 Q Mr. Rankel, is it a general practice of the
16 bank when customers request large sums of cash to ask them
17 to make those requests to a bank such as yours at a time
18 in advance of when they actually pick up such cash?

19 A Sometimes it is made because we may not have
20 the cash available. We would order it, and it could come
21 in the following day or two days later when we got it,
22 and they would pick it up that way.

23 Q Did you ask Mr. Rosenblatt to make such
24 arrangements with you?

25 A There may have been some arrangements that were

1 jp ja 3 Rankel - direct/cross

2 made on some occasions, yes.

3 Q In other words, from time to time you would
4 receive a call from Mr. Rosenblatt saying that he wanted
5 a large sum of cash in the course of the next few
6 days?

7 A He would call and if I didn't have it available,
8 I would tell him on such and such a day it would be gotten
9 and specified as to how much he wanted.

10 MR. MACBETH: I have no further questions
11 of this witness.

12 CROSS-EXAMINATION

13 BY MR. GOLDMAN:

14 Q Everything you have testified to so far is .
15 nothing more than a perfectly proper banking transaction?

16 A I would say so.

17 Q You have just given us the mechanics of what
18 essentially are perfectly proper banking transactions?

19 A Yes.

20 Q Now, Mr. Macbeth asked you -- he showed you
21 Exhibit No. 40 and he asked you if there was essentially
22 a cash transaction for \$9,000 that was the check to
23 Rabbi Rosenblatt which he endorsed and made a cash
24 transaction of \$9,000?

25 A That's right.

1 jp ja 4 Rankel - cross

2 Q Let me show you what's been previously marked
3 as Exhibit A, and ask you if you can from this same ledger
4 sheet showing the \$9,000 transaction identify that \$700
5 check as also being paid out for that month.

6 A Yes, it was paid out here.

7 Q On July 18th?

8 A July 18th, right.

9 Q Am I correct that that is to Mr. Morris Brooks

10 A That's Morris Brooks.

11 Q That's in addition to the \$9,000 previously
12 indicated?

13 A Yes, that's right.

14 Q I'd like to show you Exhibits 30 through 43;
15 those were the deposit tickets.

16 A That's right.

17 Q Mr. Macbeth asked you about the first trans-
18 action showing a deposit of \$10,000, and you were shown
19 \$9700. But in addition to that, were each and every deposit
20 after that made to the Rabbinical College of Queens?

21 A Yes, they were.

22 Q Thank you, sir.

23 Now, Mr. Rankel, when Rabbi Rosenblatt came
24 to the bank with regard to these essentially regular
25 transactions, did he make any effort to hide what he was

1 jp ja 5 Rankel - cross

2 doing in any way from your observation?

3 MR. MACBETH: Objection. It calls for a
4 mental process and conclusion.

5 THE COURT: Yes, it is a conclusion on the
6 part of the witness.

7 Ask him what he said and what he did.

8 Q Did he endorse checks openly?

9 A Oh, yes, he did.

10 Q Did he fill out the deposit tickets openly?

11 MR. MACBETH: Can we avoide the editorializing
12 of the "openly"?

13 THE COURT: Yes.

14 Q Did he ask you at any time to keep secret
15 any of these transactions?

16 A No.

17 Q Now, you had done business, banking business
18 with Rabbi Rosenblatt for many years prior to this?

19 A That's right.

20 Q Did you find his accounts to be handled in
21 the regular manner?

22 A They were.

23 Q Did you find that he met his obligations?

24 A He did.

25 Q From time to time he had borrowed money from

1 jp ja 6

Rankel - cross

2 the bank?

3 A He did that, too.

4 Q Those accounts were paid and properly paid in
5 the regular manner?

6 A They were.

7 Q In addition, Mr. Rankel, as a banker, you get to
8 know your customers and members of the community who bank
9 with you, do you not?

10 A We do.

11 Q Did you have occasion to learn the reputation of
12 Rabbi Rosenblatt in the community?

13 A I did.

14 Q What was that reputation?

15 A He was highly regarded.

16 MR. GOLDMAN: Thank you very much, sir.

17 I have no further questions.

18 THE COURT: Anything further?

19 MR. MACBETH: No redirect, your Honor.

20 THE COURT: Thank you. You may come down.

21 (Witness excused.)

22 THE COURT: Is there another witness?

23 MR. MACBETH: The Government will have one
24 more witness. We had asked him to be here at four
25 o'clock. We had gone a little faster than I anticipated.

1 jp ja 7

2 I am not sure he is present outside the courtroom.

3 THE COURT: We will take a brief recess.

4 The jury is excused.

5 Everyone remain seated until the jurors have
6 left.

7 (Jury excused from the courtroom)

8 MR. GOLDMAN: I wonder if we might, for two
9 reasons I ask, we have not been apprised of any further
10 witnesses other than those who have appeared. I would
11 ask that we be apprised now.

12 Secondly, I think it is probably someone we
13 can stipulate to. I think it is a mechanical witness.

14 MR. MACBETH: It comes out of the cross-
15 examination this morning, which is the reason I did not
16 consult the Court or defense counsel.

17 I want to put a postal inspector on as
18 to whether or not W-2's and 1099's are typically filled
19 out in the post office and the conditions in which they
20 were filled out. That was an issue the defense raised with
21 Mr. Brooks this morning.

22 I wanted to make that matter clear.

23 MR. GOLDMAN: Mr. Brooks said they didn't
24 fill them out. That's the state of the record.

25 MR. MACBETH: There are a great many inferences

1 jp ja 8

2 and further testimony that the defense purposely elicited
3 on the record. I would like to have it straight what the
4 post office practices are with respect to these documents.

5 THE COURT: The witness is on his way.

6 MR. MACBETH: I would like to have three
7 minutes to talk to him when he does arrive, if he didn't
8 arrive already.

9 THE COURT: The Court will take a short
10 recess.

11 (Recess)

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13 (Continued on the next page)
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2 (Recess.)

3 (In open court; jury present.)

4 THE COURT: Do you have another witness?

5 MR. MACBETH: Yes, your Honor.

6 The government calls Eugene B. Zambarda,
7 your Honor.

8 E U G E N E B. Z A M B A R D A, called as a
9 witness by the government, having been first
10 duly sworn, testified as follows:

11 MR. MACBETH: May I proceed, your Honor?

12 THE COURT: Yes.

13 DIRECT EXAMINATION

14 BY MR. MACBETH:

15 Q Mr. Zambarda, how are you employed?

16 A I am employed by the United States Postal Service
17 as a U.S. Postal Inspector.

18 Q How long have you been with the Postal Service?

19 A Approximately three and a half years.

20 Q And what are your duties and responsibilities
21 with the Postal Service?

22 A My duties currently involve investigations of
23 a criminal nature but in the past I have been involved with
24 internal auditing within the Postal Service.

25 Q Are you familiar with the use in the post

1 jpbr 2 Zambarda-direct
2 office as it refers to vendors within the post office as
3 what is known as a Form 1099?

4 A Yes, I am.

5 Q Is it the practice of the Post Office in the
6 regular course of business to send Forms 1099 to vendors
7 with the Post Office who are being paid on contracts
8 which they have with the Post Office?

9 A It is not their common practice, in fact,
10 they do not.

11 Q Are you familiar with the use in the Post
12 Office of what is known as a Form W-2 from the Internal
13 Revenue Service form?

14 A Yes, I am.

15 Q Was it regular for the Post Office Service to
16 receive the W-2 form?

17 A Generally it would be employees.

18 Q Would it be anybody besides employees who would
19 receive the W-2 form?

20 A To my knowledge, no.

21 MACBETH: I have no further questions of this
22 witness.

23 CROSS EXAMINATION

24 BY MR. GOLDMAN:

25 Q I didn't catch your name.

A Zambarda.

A The Post Office does issue 1099's but they do not issue them to vendors in the normal course of business.

A For instance, they may issue a 1099 to a claimant of the Postal Service.

A I did not say that.

A Yes, right.

A They are used for financial accounting purposes
or any type of auditing purposes that might be
sary to obtain payments from vendors, et cetera.

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE

1 jpbr 5

Zambafda-recross

2 RECROSS EXAMINATION

3 BY MR. GOLDMAN:

4 Q If it relates to someone other than the
5 contractors is it forwarded to the Internal Revenue Ser-
6 vice?

7 A As to 1099 forms as they are made out to
8 claimants.

9 Q If they are issued to individuals it would be
10 forwarded?

11 A Yes.

12 Q If a check of a amount is paid to an individual,
13 that would be forwarded to the Internal Revenue Service?

14 A For instance, we might have an individual,
15 like for instance, we have artists that the Postal Ser-
16 vice contracts with, they would be treated as a more or
17 less corporation, therefore, they would not, a 1099 would
18 not be issued.

19 Q I didn't say a 1099 issued. I merely said
20 if money is paid to an individual. I believe you testified
21 that that information would be forwarded to the Internal
22 Revenue?

23 A Well, an individual, now, you are talking about
24 an employee.

25 Q I am talking about an individual, separate and

Zambarda-recross

distinct from a corporation.

A Right.

MR. MACBETH: The question is obviously ambiguous.

MR. GOLDMAN: The witness answered the question.

I have no further questions.

REDIRECT EXAMINATION

BY MR. MACBETH:

Q Could you explain that situation, the difference between an individual as an employee and the situation where you have a contractor?

MR.GOLDMAN:I would object to that, your Honor.
I said an individual versus corporation.

The witness indicated in the case of an individual L

MR. MACBETH: Objection. There's no need to give--
I have asked the question. There is no need to have an editorial comment.

THE COURT: Yes. Do you have the question now, read it again, Mr. Reporter.

(Record read.)

A The Postal Service makes disbursements generally to one of two people or entities, whatever you want to call them, a corporation or an individual. An individual

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Zambarda-redirect

1 is generally a postal employee. You might have an
2 individual that would be a claimant of the U.S. Postal
3 Service so therefore the Postal Service would issue money
4 to that individual and would report on a 1099 to the IRS that
5 information
6

7 Q If an individual is a contractor with the Post
8 Office, is a 1099 used in that situation?

9 A No.

10 MR. MACBETH: No further questions.

11 RECROSS EXAMINATION

12 BY MR. GOLDMAN:

13 Q The government however does maintain records of
14 each check paid, the amount, the date and the person receiv-
15 ing the money, does it not?

16 A The government meaning the Post Office Service?

17 Q It is the United States Government.

18 A It is an agency of the United States Government.

19 You don't want to be broad. When you say government, I
20 imply -- somebody might infer the IRS or something like
21 that, no.

22 Q The United States Post Office is part of the
23 United States Government?

24 A It is an agency of the United States Govern-
25 ment.

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Zambarda-recross

226

1 Q They maintain records of all money which it
2 disburses?
3

4 A Right.

5 Q They at some time account for the money it dis-
6 burses?

7 A Right.

8 Q It accounts for money it disburses to other
9 agencies of the United States Government?

10 A If another agency should have a need to request
11 certain financial data from the Postal Service, they will
12 definitely provide it to them.

13 THE COURT: Thank you. You may come down.

14 Is there another witness?

15 MR. MACBETH: The government rests, your
16 Honor.

17 THE COURT: Thank you, you may come down.

18 (Witness excused.)

19 THE COURT: We will recess in this case until
20 9:30 tomorrow morning. Jury excused. 9:30 tomorrow morn-
21 ing.

22 (Jury excused from the courtroom.)

23 MR. GOLDMAN: Your Honor, we have several motions.
24 The first being --

25 THE COURT: If you have several, let us

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2 take those in a few minutes.

3 I have a few minor matters.

4 We will recess in this case for a few
5 minutes.

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(Continued on next page.)

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(In open court, jury not present.)

THE COURT: Mr. Goldman, do you have any motions at this time?

MR. GOLDMAN: Yes, your Honor. Mr. Cooper will present them at this time.

MR. COOPER: Your Honor, the government having rested, there are several motions to dismiss that the defense would like to make., ,

First, your Honor, a ground that transcends all the other grounds, is that the evidence offered by the government in support of the charge is blatantly and very clearly insufficient to allow this case to even go to the jury and let them deliberate on it.

What we are saying as a matter of law, your Honor, no jury can find beyond a reasonable doubt that the government has sustained its burden in this case. The government presented one witness, your Honor, who was able to testify as to anything alleged in the indictment. Morris Brooks is the only person who even remotely implicates the defendant and we submit that his testimony is so vague and so weak and so uncorroborated, your Honor, and we understand that a one-witness presentation is possible but in this case, we say that it is so vague, so weak and so uncorroborated that it should not even be allowed to go to

1 jpjb

2 the jury.

3 The only thing that Mr. Brooks testifies to
4 which would in any way bring Rabbi Rosenblatt, the defen-
5 dant, within the confines of the indictment is the alleged
6 purposes for which he told Rabbi Rosenblatt these checks
7 were being cashed. Getting 10 per cent is not illegal.
8 That is not a conspiracy. Cashing the checks is not il-
9 legal and that would not form the basis of a conspiracy.

10 The government alleges that the Rabbi had knowl-
11 edge that the checks were being cashed so that people could
12 either not pay the entire amount. The facts do in some way
13 reveal a kickback. That's the only portion of the testimony
14 of Mr. Brooks in some way that brings the charge against
15 the defendant.

16 We submit the facts in that area are so vague
17 and so weak that it should not be allowed to be presented
18 to the jury. The only witness who attributed to Rabbi
19 Rosenblatt "nefarious purpose" was told to have so many
20 stories you couldn't even believe. That wasn't a defense
21 witness and that was Mr. Hardoon. He said in his testimony
22 I'm not quoting exactly, Mr. Brooks told so many stories
23 you don't know which ones to believe.

24 Your Honor, this is another story that he's
25 telling and I don't think having a government witness make

1 jpjb

2 those kind of statements about the only witness who can
3 attribute any criminality at all to the defendant is the
4 basis for allowing a jury to deliberate in the case and
5 legally find beyond a reasonable doubt that Rabbi Rosen-
6 blatt had the knowledge of nefarious purposes that is
7 claimed.

8 Just to summarize briefly the government has not
9 presented a prima facie case of credible evidence sufficient
10 to allow a defendant's case to go to the jury and have
11 them convict. What I am saying as a matter of fact the
12 government has not established a credible prima facie
13 case and on that ground, initially, we ask that the court
14 dismiss the indictment.

15 THE COURT: All right, do you have some other
16 motion?

17 MR. COOPER: There are two other grounds, your
18 Honor. Suppose you finish and I'll have the government
19 reply.

20 MR. COOPER: Okay.

21 Your Honor, second, there is a one-count charge
22 and that's conspiracy to defraud the United States.

23 We allege, your Honor, on the basis of the tes-
24 timony that was presented in court, the government has not
25 shown a conspiracy to do anything. As the court knows,

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2 the essence of the crime of conspiracy is an agreement.

3 There has never been an agreement to do anything
4 in this case, your Honor. We made the original allegation
5 in that regard in our motion papers and I think this is
6 the proper time to renew it, after the court having heard
7 the evidence.

8 Mr. Brooks testified, the government stipulated,
9 Rabbi Rosenblatt had absolutely no knowledge concerning the
10 manner in which the checks were obtained by Mr. Brooks.
11 If you believe what Mr. Brooks said, he lied to Rabbi
12 Rosenblatt and said somebody wanted to pay less taxes
13 than they were supposed to. If we believe Mr. Brooks.

14 Rabbi Rosenblatt, if we believe Mr. Brooks, was
15 acting upon that assumption. Mr. Brooks was never acting
16 upon that assumption, your Honor. Mr. Brooks and Rabbi
17 Rosenblatt have to have been acting upon the same assump-
18 tions in order that an agreement could have been reached.

19 Basically, your Honor, that's what we say did not
20 happen in this case. I think the testimony is clear on
21 that regard.

22 If I can just draw the court's attention to
23 several cases which we noted in our moving papers origin-
24 ally, your Honor, and some of the language in those cases.

25 THE COURT: Well, before you get to the cases,

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2 the witness Morris Brooks testified that he went to Rabbi
3 Rosenthal and said that he wanted Rabbi Rosenthal to cash
4 the checks to aid persons who were interested in evading
5 taxes, is that so?

6 MR. COOPER: I don't believe Mr. Brooks' words
7 were that clear. I don't believe he went that far.

8 THE COURT: What did he say?

9 MR. COOPER: I believe what he said was in es-
10 sence, I have some friends or these are people who for tax
11 purposes don't want these to go through their account.
12 Let's even assume that that was true, your Honor --

13 THE COURT: Let's assume that's what he said
14 and I think you are correct. That's what Mr. Brooks said.

15 MR. COOPER: He didn't use the language evade
16 taxes.

17 THE COURT: Yes, he didn't use the word evade.
18 He said what you said.

19 MR. COOPER: Something to the effect that for
20 tax purposes they didn't want these checks to go through
21 their own accounts.

22 THE COURT: That's what he told Rabbi Rosenblatt
23 and Rabbi Rosenblatt then proceeded to cash the checks,
24 is that it, according to Brooks' testimony?

25 MR. COOPER: That's correct.

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2 THE COURT: You say that's not an agreement to
3 defraud the United States.

4 MR. COOPER: First, your Honor, I would like to --

5 THE COURT: Suppose you answer my question. You
6 say those facts do not amount to an agreement to defraud
7 the United States?

8 MR. COOPER: Yes.

9 THE COURT: Now, tell me why.

10 MR. COOPER: There can be a number of interpre-
11 tations placed on that statement, your Honor. He didn't
12 say these people wanted to evade taxes. He said for tax
13 purposes they don't want these checks to go through their
14 account. It could be any number of tax purposes. It
15 could be tax purposes involving state taxes, even though
16 these were United States Government checks.

17 It could be tax purposes involving the specific
18 accounts to which he was referring. It could be tax pur-
19 poses that don't necessarily mean evading taxes but that
20 means using these checks for another corporation or for
21 some other legal acceptable reason.

22 In other words, your Honor, they might want to
23 lessen their taxes by placing these checks in the account
24 of some other organization with which they are involved.
25 He didn't say they wanted to evade taxes.

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2 THE COURT: Just a moment. He said these were
3 government checks. These were checks representing payments
4 to the payee for services rendered, were they not?

5 MR. COOPER: What the Rabbi knew was that these
6 were checks made out to individuals. He didn't know what
7 they were for.

8 THE COURT: Well, he knew they were government
9 checks, did he not?

10 MR. COOPER: We concede they were government
11 checks.

12 THE COURT: That is money paid to the payee,
13 whether he knew the purpose or not, isn't that so?

14 MR. COOPER: That's what appears on its face.
15 It is possible, your Honor, the phrase for tax purposes
16 could have a completely innocent meaning. It could have
17 a meaning -- I'm not saying that this is the most probable
18 meaning but I am saying it is open to other interpreta-
19 tions.

20 If it is, there can't be a defrauding of the
21 United States, at least established enough to send to the
22 jury and have them convict on it.

23 THE COURT: The issue is now whether there is
24 any evidence on which the jury can find beyond a reasonable
25 doubt that there was an agreement?

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2 MR. COOPER: I understand that's the issue. I
3 understand it. I am saying that if Mr. Brooks' statement
4 is opened to interpretations which could imply --

5 THE COURT: You are saying there could be only
6 one interpretation before the case can go to the jury.
7 The issue is whether there is any evidence for which the
8 jury could find beyond a reasonable doubt there was an
9 agreement.

10 MR. COOPER: Your Honor, what I am suggesting
11 that if there are equally acceptable interpretations, if
12 a statement could have a completely innocent meaning as
13 well as a meaning connotating guilt and that there is
14 nothing else besides that bare statement to support the
15 inference that we should look to the interpretation connot-
16 ing guilt, then the court as a matter of law can't let
17 the jury decide on that interpretation.

18 THE COURT: What did the Second Circuit hold in
19 the United States against Taylor on that precise point?
20 Didn't they hold to the contrary?

21 MR. COOPER: I don't know the case by heart,
22 your Honor.

23 THE COURT: You don't know the case by heart?

24 MR. COOPER: I don't know the holding of the
25 case.

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THE COURT: That's the Second Circuit's most recent pronouncement on that matter. They may have reiterated it but certainly it is the most leading case to my knowledge and I don't know any change in the law with respect to United States against Taylor.

Do you have some case which supports your position?

MR. COOPER: I can say to your Honor and I was not prepared to make these arguments today because I thought this case would take longer. In a very recent case in which we were before Judge Werker, he dismissed the case at the end of the government's presentation on the exact grounds that I am alleging, that even though it was possible for a jury to believe that what the witness said established a crime, it was so vague and so uncorroborated that he would not let it go to the jury on that basis. I could have the decision of the court before you tomorrow morning.

THE COURT: Well, that's a different point from the one you were making, I think. You are making the point that if the evidence was susceptible of two interpretations, one favoring innocence and the one favoring guilt and the jury was bound to accept the one favoring innocence, then the motion would have to be granted at

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2 this point.

3 Now you are saying that the case before Judge
4 Werker was a case in which he found, in effect, no evidence
5 in which the jury could find beyond a reasonable doubt
6 that the defendant was guilty.

7 MR. COOPER: That's not what I said, your Honor,
8 I believe that Judge Werker's decision implied that there
9 was evidence of the specific acts alleged by the govern-
10 ment but that it was so vague and so uncorroborated that
11 he would not allow the jury to even deliberate on it.

12 THE COURT: Well, I think the witness Brooks
13 nere testified repeatedly that he told the defendant that
14 these pepole wanted to evade taxes. Pardon me. They
15 wanted to put this or have this cashed for tax purposes

16 MR. COOPER: That they did not want them to go
17 through their bank accounts. What I am saying, your Honor,
18 is this could be a very innocent kind of connotation.
19 I believe there is nothing else to support any kind of
20 criminality on the part of the defendant that based on
21 that bare thread the court in its discretion should not
22 allow the case to go to the jury on that one point.

23 THE COURT: What about Mr. Brooks' testimony for
24 the end that the Rabbi kept calling him for other checks?

25 MR. COOPER: As I said before, even if that

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2 happened, your Honor, there is no law against cashing a
3 check for someone even if you get 10 per cent of the pro-
4 ceeds. If the defendant did not have an evil purpose in
5 his mind or did not have in his mind any knowledge that
6 this was being done and the government was being defrauded
7 and he actively tried to get some more checks to cash,
8 that would not mean that he was guilty of anything that
9 the government was being defrauded in this respect.

10 He might have thought that he was helping out
11 Mr. Brooks, that there was nothing wrong with what he
12 was doing and since he was in fact receiving some money
13 for it, he might have wanted to do it some more.

14 THE COURT: What do you do with the testimony
15 of David Hardoon to the effect that he warned the Rabbi
16 or suggested to him that the transactions did not appear
17 legitimate?

18 MR. COOPER: Your Honor, I don't recall exactly --

19 MR. GOLDMAN: If I may, your Honor. I think his
20 testimony was that he said to the Rabbi or something he had
21 a feeling that there was something about this but he never
22 told the Rabbi what it was, the conversation was nothing
23 with regard to what it was he felt was wrong or improper.

24 In fact, he said, the Rabbi made one response,
25 I know Dali. But Mr. Hardoon didn't know what it meant

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2 and could not say what that meant even to the Rabbi or
3 even if he understood it to mean anything.

4 So, I don't think that statement taken alone
5 was the only thing that Mr. Hardoon said could in any way
6 corroborate Mr. Brooks.

7 MR. COOPER: Your Honor's recollection may be
8 better than mine but I think it was prefaced by Mr.
9 Hardoon asking something to the effect that what is happen-
10 ing with these checks or what is going on with the checks.
11 He may have said something which I don't think -- well, I
12 don't remember Mr. Hardoon testifying to that.

13 Your Honor may have a better recollection of his
14 testimony than I do in that regard. I do remember him
15 in December or January, December '74 or January '75, talk-
16 ing to Rabbi Rosenblatt and bringing up the subject of the
17 checks. He testified that when Rabbi Rosenblatt said
18 don't worry, I know Dali, that the subject was dropped.

19 I don't know if any prefacing remarks were made
20 concerning any illegality or any defrauding at that time.

21 THE COURT: Do you have anything else?

22 MR. COOPER: Yes, your Honor.

23 Along those same lines, there is -- it is quite
24 clear that Morris Brooks knew when he told Rabbi Rosen-
25 blatt that these checks were being used to evade taxes

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2 that he was lying. Morris Brooks knew that they weren't
3 being used to evade taxes, that they weren't being used
4 to conceal kickbacks or payola or anything in that regard.
5 The two defendants never had a meeting of the minds and
6 that is necessary. That's the essence of conspiracy and
7 it's wholly lacking here.

8 If I can just quote briefly from our brief be-
9 fore your Honor --

10 THE COURT: Well, I think I ruled on it before.

11 MR. COOPER: But now your Honor has heard the
12 testimony.

13 THE COURT: We have just gone over it in the last
14 five minutes and it seems clear to me that there is evi-
15 dence from which the jury can find that there was a meeting
16 of the minds with respect to the taxes that these checks
17 were being brought to the Rabbi to be cashed instead of
18 to the bank by the payees because they wanted to evade
19 taxes.

20 Now, it is true that Mr. Brooks didn't use the
21 word evade, but that is an inference which can be plainly
22 drawn by the jurors. Here is a man that a check for 5,000
23 and another for 4,000 and a series for similar amounts
24 are being brought to a Rabbi to cash rather than to a
25 bank.

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2 The jury can plainly infer that the Rabbi under-
3 stood that there was something improper about the trans-
4 action as Mr. Brooks suggested to him, that they were
5 interested in evading taxes. That's what they agreed
6 upon. That is evidence on which they could find that
7 there was an agreement between the defendant and Brooks
8 to defraud the United States.

9 MR. COOPER: Your Honor, that is what Rabbi
10 Rosenblatt may have thought they agreed upon, assuming
11 the correctness of Mr. Brooks' testimony. That is never
12 what Mr. Brooks agreed upon because he knew that that was
13 not happening. The person who states that he's entering
14 into an agreement but secretly knows that he's not, your
15 Honor, is not entering into a conspiracy.

16 A person who is duped into acting by someone
17 else when the other person knows the agreement is not
18 really an agreement because it can't happen, it's impos-
19 sible to happen as was the case here, is not a conspirator.

20 We cite authority for that, your Honor. If the
21 essence of the agreement is evading taxes and Brooks never
22 actually believed that they were aiding in evading taxes,
23 there cannot be an agreement that's the basis of a con-
24 spiracy. That's the essence of our argument, your Honor.

25 Brooks knew there was no tax evasion, no kick-

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2 back concealment, no payola concealment. Brooks knew
3 the only thing he was concealing was his issuing the checks
4 from the Post Office. There was certainly never any meet-
5 ing of the minds on that. There was as much meeting of the
6 minds when a conspiracy to evade taxes as there was on a
7 consAiracy to steal the checks from the Post Office, your
8 Honor.

9 What we are saying, there was no meeting of the
10 minds on any object of the conspiracy.

11 THE COURT: I see. All right; do you have any-
12 thing further?

13 MR. COOPER: Yes, your Honor. In addition, the
14 third point, is one which we have also raised before but
15 should be raised in the government's case. That's the
16 venue point.

17 There are only acts remotely connected with this
18 district and they are the acts of Mr. Brooks in making
19 the false statements and securing the checks, stealing
20 the checks from the Post Office here. I think it is
21 admitted.

22 The government has stipulated, as I said before,
23 Rabbi Rosenblatt knew nothing of that. Brooks stated he
24 told Rabbi Rosenblatt nothing of that. That's the only
25 thing that happened in the Southern District. Everything

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2 else happened in another district, your Honor. The checks
3 themselves are not paid to payees in the Southern Dis-
4 trict. They are made to payees in other districts out
5 of the Southern District.

6 THE COURT: Brooks was working here in the main
7 Post Office in Manhattan.

8 MR. COOPER: Yes. The charge is conspiracy to
9 defraud the United States and not to falsify records and
10 conspiracy to receive stolen property.

11 Therefore, your Honor, there must be acts com-
12 mitted pursuant to and in furtherance of the conspiracy
13 in this district and what we are saying there aren't and
14 the facts -- the only acts even testified to in this dis-
15 trict were not committed pursuant to or in furtherance
16 of the conspiracy.

17 The question is, for what acts is the conspirator
18 liable. If there was a conspiracy and we admit it for a
19 moment there was a conspiracy to evade taxes if we admit
20 that arguendo --

21 THE COURT: You keep using conspiracy to evade
22 taxes but the charge is to defraud the government.

23 MR. COOPER: If we admit that which we don't
24 but for the purpose of this argument, if we admit there
25 was a conspiracy to defraud the government, the question

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2 is, were Mr. Brooks' acts in furtherance of that conspiracy
3 and more importantly is Rabbi Rosenblatt liable for those
4 acts.

5 Your Honor, the answer, I think, was given by
6 the Second Circuit in two cases and I just want to briefly
7 quote from those cases, both the Second Circuit cases.
8 United States V. Peoni which is 100 F. 2d 401, quoting
9 from page 403, 1938 case and the same quote is approved
10 in the United States V. Borelli, another Second Circuit
11 case which was 336 F. 2nd 376, quoting at page 385, the
12 Borelli case, certiorari was denied by the United States
13 District Court in 1975.

14 The Second Circuit said "Nobody is liable in
15 conspiracies except for the fair import of the concerted
16 purpose or agreement as he understands it. If later com-
17 merce change that, he is not liable for the change. His
18 liability is limited to the common purpose while he remains
19 in it."

20 Your Honor, I think clearly the conspiracy, if
21 there was one, as Rabbi Rosenblatt understood it, did not
22 extend to stealing checks in the Post Office. If it did,
23 your Honor, then we can say it would extend to --

24 THE COURT: The government has already stipulated
25 that he didn't know the checks were stolen.

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2 MR. COOPER: That's true, your Honor; that's
3 part of my argument. But what we are saying is that he
4 also had no reason to believe that that would happen and
5 that such a reason is necessary.

6 Your Honor, there is an independent test to see
7 whether or not Mr. Brooks' acts in the Southern District
8 were in fact in furtherance of the conspiracy.

9 As the court knows, the United States District
10 Court in the United States V. Pinkerton, citation for that
11 is 328 U.S. 640, stated the rule that a conspirator can
12 be held liable not only for his -- not only for the con-
13 spiracy but also for all substantive offenses committed
14 by his co-conspirators in furtherance of the conspiratorial
15 objectives.

16 Now, the only things that happened in the Southern
17 District were substantive offenses and they are in fact
18 charged in Counts 2 through 9 in the indictment. Under
19 the Pinkerton theory, if they were committed in furtherance
20 of the conspiracy, Rabbi Rosenthal would be chargeable
21 for that.

22 So, we would have the illogical situation of
23 having the government admit Rabbi Rosenblatt knew nothing
24 of it. Brooks admitted that he deceived Rabbi Rosenblatt,
25 he lied to him about that and said something else happened

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2 and yet Rabbi Rosenblatt is being charged for these acts.
3 That could only happen if those acts were in furtherance
4 of the conspiracy.

5 Your Honor, I think, if I can just read a brief
6 quote from that decision, you'll see why that situation
7 can't exist. I'm reading now from page 497 of the deci-
8 sition where the Pinkerton court said "A different case
9 would arise if the substantive offense committed by one
10 of the conspirators was not in fact done in furtherance
11 of the conspiracy, did not fall within the scope of the
12 unlawful project but was merely part of the ramifications
13 of the plan which could not be reasonably foreseen as a
14 necessary or natural condition of the unlawful agree-
15 ment."

16 I think that's exactly what happened here, your
17 Honor. Mr. Brooks' acts were ramifications, if there was
18 an unlawful plan which could not be reasonably foreseen
19 as necessary and unnatural conditions of any unlawful
20 agreement.

21 Your Honor, I think that makes it clear. It is
22 an independent way we can test whether in fact the acts
23 in the Southern District were acts committed in furtherance
24 of the conspiracy. Only if the answer to that question
25 is yes, can venue properly lie here. I think the answer

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2 to that question has to be no. They were independent
3 acts not foreseeable, not ramifications of what Rabbi
4 Rosenblatt, we believe, was happening as conceded by the
5 government was the case.

6 Therefore, at least, from the venue argument,
7 this court doesn't have jurisdiction to hear the case.

8 THE COURT: All right, Mr. MacBeth. Do you
9 want to reply.

10 MR. MacBETH: Yes, your Honor.

11 First, the first point that the defense makes
12 that there is insufficient evidence for this case to go
13 to the jury, the principal emphasis that the defense --
14 the principal tactic the defense makes is to contend that
15 there is nothing to support Brooks' testimony that that
16 Brooks' testimony is incredible and unbelievable.

17 In fact, there is a great deal to support Brooks'
18 testimony.

19 (Continued on next page.)
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2 Throughout the course of the day there have
3 been a large number of exhibits in the forms of the deposit
4 slips and checks, both treasury checks and checks from
5 Rosenblatt to Brooks and so on introduced in the testimony
6 here. That whole paper trail very clearly supports the
7 testimony that Brooks gave here. It is perfectly reasonable
8 to draw the inference from the testimony given that in
9 fact there was an agreement, to, defraud the United States
10 between Brooks and Rosenblatt.

11 There are, of course, things that the Rabbi
12 said outside the conversations with Brooks directly on, I
13 think, the phrase was "avoid taxes," and of course about
14 kickbacks and payola

15 That is, of course, Brooks' testimony that
16 they go to the bank at one point to see Rankel, Rosenblatt
17 concocts the story about "I will tell him that you got a
18 loan." I think that is a clear indication of the state of
19 Mr. Rosenblatt's mind at that time.

20 You don't concoct that kind of story to tell
21 to a bank officer if you don't think you are doing something
22 that is clearly wrong.

23 The other part of that is, of course, the state-
24 ment that Mr. Hardoon made when Mr. Rosenblatt told him,
25 "I know Dali." Brooks testified that the way Mr. Rosenblatt

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2 pronounced Dalis' name was "Dali" or "Dolly." I think
3 it is clearly the same name. Hardoon didn't know what it
4 meant. There is no question that the jury having heard
5 the entire story can see perfectly well what the whole
6 story was.

7 Rosenblatt concocted a story and he is telling
8 Hardoon that "I know the payee of the check and it is okay."

9 There is no evidence that he did know the payee
10 of the check. I assume that the defense will concede
11 that he didn't.

12 Again, it is a false story that the rabbi makes
13 up and I think it clearly indicates the state of his
14 mind. He knew perfectly well that he was engaged in
15 a criminal enterprise. So that, not only has the Government
16 presented the direct testimony --

17 THE COURT: Well, he knew he was engaged in
18 a criminal enterprise, but the issue is whether he knew
19 that he was engaged in a criminal enterprise to defraud the
20 United States. That is whether there was an agreement
21 between the two to defraud the United States as Mr. Cooper
22 points out. He claims that since the witness -- the
23 co-defendant, Mr. Brooks, never intended that, that is a
24 scheme to evade taxes, there is a question as to
25 whether there was a meeting of the minds between this defend-

1 jpb-3

2 ant the co-defendant on what they were doing.

3 MR. MACBETH: I think there is a meeting of
4 the mind that there was an indication to defraud the Govern-
5 ment. You can't break it down to say it was an agreement
6 to evade taxes or an agreement to steal Government checks.
7 There was an agreement and their minds meet on that.

8 As your Honor knows the Government is under
9 no obligation to present testimony that there was that kind
10 of verbal agreement. "I agree with you that we will defraud
11 the Government." In fact it is very unusual in a con-
12 spiracy case to have this kind of discussion of that rapport.

13 THE COURT: What you are saying Mr. Brooks knew
14 he was defrauding the United States and by what he said to
15 the defendant, the defendant then knew that he was defraud-
16 ing the United States, is that it?

17 MR. MACBETH: That is correct and the defendant
18 entered into that agreement. From his acts and testimony
19 we have here it is clear he knew he was engaged in a criminal
20 act, and that is the criminal act of he may have thought
21 there were other ramifications.

22 He certainly knew he was going to defraud the
23 United States.

24 THE COURT: What do you say about the venue
25 question?

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2 MR. MACBETH: It is clearly an act done by one
3 of the defendants in furtherance of the conspiracy. If they
4 are done in this District, it means there is venue in
5 this District of the Brooks' acts in obtaining the checks,
6 that is what he was doing by making the false entry and
7 taking the check out of the pouch and by putting the slip
8 arm, as he testified, so it would be mailed to him and
9 clearly is an indication of that. There is no question
10 Mr. Rosenblatt wanted the checks obtained.

11 Brooks testified on a couple of occasions
12 Mr. Rosenblatt said, "When are we going to have more checks,"
13 and "Can't you get more checks?"

14 What Brooks is doing in this District in
15 furtherance of this conspiracy was to obtain the checks.
16 It was absolutely crucial in the conspiracy to obtain the
17 checks. The way he obtains them, the Government concedes
18 Mr. Rosenblatt didn't know that. But the acts he took in
19 this District were to obtain checks. Those are conceded
20 by the defense, and those were clearly acts in furtherance
21 of the conspiracy.

22 That is absolutely that he did that and
23 Rosenblatt had no basis to think that these checks were
24 not being obtained in the Southern District of New York as
25 opposed to the Eastern District of New York.

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2 He knew perfectly well Brooks went to Manhattan
3 every day and where he obtained these checks. He certainly
4 did know from the kickback story there was some connection
5 that it was to do with his post office work. That was
6 certainly implied.

7 THE COURT: When in your mind did these parties
8 reach an agreement to defraud the United States?

9 MR. MACBETH: I think they reached that agree-
10 ment at the time in July of 1974, when Mr. Rosenblatt agreed
11 to cash the first check on the understanding that that,
12 what was going on was a fraud against the United States
13 and that their minds met on that.

14 THE COURT: Well, the point about that is the
15 first check had been previously obtained, had it not?

16 MR. MACBETH: It had been . I believe that on
17 the overt acts are later acts in Manhattan, as well.

18 THE COURT: Let's take the first check: The
19 checks were all obtained in Manhattan.

20 MR. MACBETH: The checks had all been obtained
21 before the agreement had been reached. I have to agree
22 with your Honor on that.

23 THE COURT: All of the checks.

24 MR. MACBETH: No, just the first two. Only
25 the first two. The two Brown checks.

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2 THE COURT: The first two are presented on he
3 same day to Rabbi Rosenblatt.

4 MR. MACBETH: That is correct, your Honor.

5 THE COURT: Those checks had been obtained in
6 this District by Brooks before they entered into an agree-
7 ment, isn't that so?

8 MR. MACBETH: That is correct, I would have to
9 agree on that.

10 THE COURT: With respect to those two checks,
11 were there any acts in this District in furtherance of
12 the conspiracy, that is --

13 MR. MACBETH: The first two overt acts recite
14 that Brooks made the false ent ries to obtain those checks
15 in this District. There are later overt acts, for
16 instance, 10 and 11 on later checks that Brooks also made
17 false entries on in this District.

18 THE COURT: All right. So all the checks were
19 obtained after that, is that it, here in this District?

20 MR. MACBETH: All except the two Brown checks,
21 the first two checks, yes, all the rest were obtained in
22 this District after that.

23 THE COURT: All right.

24 MR. COOPER: If I may briefly rebut. Back to
25 the point as to the agreement and the necessity for a

1 jpb-7

2 meeting of the minds. Mr. Macbeth says that even though
3 they may not have agreed on what they were doing, Brooks
4 knew what he was doing was defrauding the United States and
5 Rosenblatt knew what he was doing was defrauding the United
6 States and therefore there is a conspiracy to defraud the
7 United States.

8 If there was a separate crime, your Honor, of
9 defrauding the United States as a subsequent crime and not
10 just a conspiracy, then under Mr. Macbeth's set of facts,
11 you might be able to convict each one for an independent
12 crime of defrauding the United States, but the crime here
13 involved, your Honor, is conspiracy to defraud the United
14 States. Not only do both people believe they are defrauding
15 the United States, but there has to be an agreement --

16 THE COURT: What do you understand by the word
17 "defraud," what is your definition of defraud?

18 MR. COOPER: I am sure it is not a word of art,
19 and it is not a legal -- my idea of defraud is --

20 THE COURT: Any deceptive device or technique or
21 method of doing business, would that be defraud?

22 MR. COOPER: I will accept that for the purpose
23 of this argument, your Honor. But conspiracy to defraud
24 then there has to be an agreement as to the deceptive device
25 or agreement.

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2 THE COURT: The charge is an agreement to
3 defraud and I have just asked you how you define defraud.

4 MR. COOPER: If you said a deceptive device
5 or -- I don't remember what else you said, then there
6 has to be an agreement.

7 THE COURT: There was an agreement to employ
8 some kind of deceptive device, technique or method of
9 doing business here, was there not?

10 MR. COOPER: In this case there was not.
11 There was no agreement to employ a method of doing business
12 so the United States would be cheated.

13 THE COURT: The agreement was to cash a check
14 for Brooks, not payable to Brooks, wasn't it?

15 MR. GOLDMAN: Your Honor, may I just comment
16 at this time?

17 THE COURT: Yes.

18 MR. GOLDMAN: Your Honor, I think we have to
19 keep sight of the fact that the Government concedes that
20 Rabbi Rosenblatt knew nothing of the fact that the checks
21 were stolen. So, there could not have been an agreement
22 which encompassed the stealing of the checks.

23 As Mr. Cooper pointed out had there been such
24 a knowledge or even reason to believe that Rabbi Rosenblatt
25 would have been properly chargeable in each of the substantiv

1 jpb-9

2 counts and he wasn't. Those acts of Brooks of stealing
3 the checks are strictly Brooks' own private enterprise.

4 THE COURT: You are suggesting then that before
5 a defendant can be convicted of conspiracy the Government
6 must prove that he had knowledge of everything that every
7 other co-conspirator did in furtherance of the conspiracy
8 and I don't understand that to be the law.

9 MR. GOLDMAN: Before Rabbi Rosenblatt
10 could be implicated in the theft of the checks, the con-
11 spiracy which he entered into and it is a mental state
12 and the agreement, had to encompass either knowledge of
13 or reason to believe the theft of the checks.

14 THE COURT: No. He had to have knowledge that
15 some deceptive device was being used here against the United
16 States. He didn't have to know they were stolen. He
17 knew that the payee wanted to avoid taxes or evade taxes
18 somehow. Or do something improper, otherwise he wouldn't
19 be there.

20 MR. GOLDMAN: Let's assume he knew the payee
21 wanted to do something improper, that knowledge and that
22 agreement occurred in Queens, in the Eastern District.
23 So that there is nothing that occurs in the Southern District
24 with regard to the agreement in which Rabbi Rosenblatt
25 entered, or with regard to any of the subsequent acts which

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2 were the character of the checks and processing and none
3 of which occurred in Queens.

4 MR. COOPER: I was making an argument about
5 the agreement aspect of it and not the venue aspect of it.

6 THE COURT: Yes. All right.

7 MR. COOPER: If I can quote from a recent 1973
8 case, that would be a SEventh Circuit, and nt Second
9 Circuit. That Court says, and the case I am quoting
10 United States v. Greer, but that case, your Honor, does
11 quote a Second Circuit case and that is United States v.
12 Andolschek. The Court says there "It is true a party
13 to a conspiracy need not know the identity or the number
14 of his confederates when he embarks upon a criminal
15 venture of indefinite outline. He takes his chances
16 as to its content in membership. So be it that they
17 fall within the common purpose as he understands them. Never-
18 theless, he must be aware of those purposes, must accept
19 them and their implication if he is to be charged with
20 what others may do in execution of it."

21 What I am saying, when two people do not even
22 have that kind of agreement that would be sufficient to
23 validate a contract, your Honor, the barest necessity of
24 a meeting of minds as to what they are doing, then there
25 cannot be an agreement in the sense that it would form

1 jpb-11

2 a conspiracy.

3 If I can also briefly respond to the venue
4 point. What Mr. Macbeth said in effect is that any act
5 that Brooks might have committed to obtain the checks would
6 be in furtherance of the conspiracy. That has to be the
7 import of what Mr. Macbeth said.

8 THE COURT: Any overt act need not in itself
9 be criminal. You are suggesting that it has to be. An
10 innocent act. Let's assume that Brooks did have a friend
11 who had a check that he legitimately came by and asked
12 Brooks to get it cashed for him to evade taxes. If Brooks
13 is obtaining that check and taking it to Rabbi Rosenblatt
14 would be the same as the situation here. It doesn't have to
15 be an act criminal in itself.

16 The Government points out Brooks' act was in
17 obtaining the check.

18 MR. COOPER: I am not arguing with you as to that
19 at all. The overt act does not have to be a crime. It
20 can be an innocent act by itself, but not innocent in terms
21 of the conspiracy. But what Mr. Macbeth said that these
22 overt acts -- the question as to venue, your Honor, were
23 these acts in Southern District in furtherance of the
24 conspiracy. That is the threshold question. That is the
25 only way that we can have proper venue in this District.

1 jpb-12

2 If they weren't in furtherance of the conspiracy,
3 no matter what Brooks did it doesn't put venue --

4 THE COURT: After Brooks succeeded in getting
5 the first two checks cashed, didn't he obtain other checks
6 in this District for the purpose of taking them to Rabbi
7 Rosenblatt in accordance with their agreement to cash
8 checks to help people with their taxes?

9 MR. COOPER: Your Honor, let's assume they did.
10 I would say that the testimony doesn't indicate that
11 because there is no, I don't believe there is any indica-
12 tion that at that first meeting Brooks said, "Hey, I'm going
13 to do this a lot for you."

14 There is testimony that Brooks said, he argued
15 about the 10 per cent, the Rabbi cashed the check that
16 later Brooks called the Rabbi again and said, "I have
17 another check."

18 I don't know, your Honor, that the testimony
19 is sufficient to imply that at that meeting Brooks said "I am
20 going to bring a lot of checks to you over the next year."

21 Even if we assume that he did, your Honor, he
22 told the Rabbi that they were checks that were being used
23 for tax purposes and not the true purpose. But what Mr.
24 Macbeth says is that any act by Brooks to obtain a check
25 would be in furtherance of the conspiracy.

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That is the only way he can say these acts of which Rabbi Rosenblat knew nothing were in furtherance of the conspiracy. That would mean that if Brooks was in Manhattan, your Honor, and he shot and killed a letter carrier and thereby got the check and took that check to Rabbi Rosenblatt, that that is an act in furtherance of the conspiracy.

Further, that that is an act for which Rabbi Rosenblat is liable because under Pinkerton he is liable for any act in furtherance of the conspiracy. It is just illogical, your Honor, and it does not make sense.

Your Honor, that is one exception noted in Pinkerton. It is a ramification, to use their words "could not be reasonably foreseen as a necessary or natural consequence of the unlawful agreement."

Another test, your Honor, just to show that this was not in furtherance of the agreement and Rabbi Rosenblatt should not be held liable for that is that the Government, if this was in furtherance of the agreement, could have indicted Rabbi Rosenblatt for those eight substantive counts and they chose not to. I don't think out of the generosity of their heart, your Honor, but I think in drawing the indictment if it occurred to them that the Pinkerton rule applied, it was just so illogical, their own witness

1 jpb-14

2 was deceived as to what happened and they admit do not know
3 how the checks were obtained, was obtaining those checks.

4 I think Pinkerton and the Government's own
5 action for not indicting Rabbi Rosenblatt for those sub-
6 stantive crimes showed they were not acts committed in
7 furtherance of the conspiracy.

8 If they are not, your Honor, just to underscore
9 it, nothing happened in this District which would give
10 this Court jurisdiction on the case.

11 MR. MACBETH: Obviously this is not a Pinkerton
12 case. Mr. Rosenblatt has not been charged with those
13 subsequent crimes. That is a decision within the prosecuto-
14 rial discretion of the office of the United States Attorney
15 for this District and the United States Attorney has not
16 sought indictment on those grounds.

17 The bases for that are not a matter of public
18 record and I don't think this office has to defend itself
19 for not indicting the defendant for more charge than he
20 is charged with.

21 I am rather surprised to hear the defense
22 urge that he should be indicted for another eight counts.
23 Obviously, in very many cases the Government can indict
24 the defendant for more counts than in fact it does. We
25 can take the most obvious situation of someone who steals

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2 large amounts of mail over a long period of time and has
3 treasury checks among that mail, may or may not be indicted
4 both for postal offenses and for offenses of forging and
5 uttering Government checks.

6 The examples can be multiplied. That is
7 simply a prosecutorial discretion and nothing more than
8 that. The argument for Pinkerton is irrelevant. We
9 don't face the Pinkerton situation here. What Brooks did
10 in Manhattan, was charged with doing, and clearly made in
11 in furtherance of the conspiracy in order to get the checks
12 that he took to Rosenblatt that Rosenblatt wanted him
13 to bring, so they could cash them and put the money in
14 their pockets. That is obvious what happened.

15 Let me reply for a moment to the question of
16 the agreement of mind and draw your Honor's attention to
17 the Finkelstein case in the Second Circuit, which was
18 decided last year, and I cited this in a previous memo to
19 the Court. That was a stock manipulation scheme in which
20 some of the conspirators were defrauding other conspirators.
21 The same kind of attack of whether there was a meeting of
22 the mind was brought up and the Court answered that by saying
23 that both groups of stock sales manifested a unifying
24 purpose, namely bilking the unsuspecting public by foisting
25 worthless stock upon it, I think that is the same kind

1 jpb-16

2 of meeting of the minds on that.

3 We don't attack the conspirator's working
4 against each other, we don't say Brooks went out some way
5 to further defraud Rosenblatt. Their minds clearly meet
6 on the clear precept they are going to defraud the United
7 States.

8 They diverge on other matters. That is per-
9 fectly proper and I can cite your Honor more cases on
10 that. Blue vs. the United States, I think is very much
11 to the point. 138 F. 2d, at page 358. If one's intent
12 is to defraud when he joins a dishonest scheme, he becomes
13 a part of the scheme although he may know nothing but his
14 own share in the aggregate wrongdoing. I think that
15 is exactly the same situation we have here. The defend-
16 ant Rosenblatt knew his share of the aggregate wrongdoing.

17 THE COURT: All right. The Court is about to
18 rule on the motion.

19 I gather Mr. Cooper, that your motion at this
20 time is made pursuant to Rule 29, and is a motion for judgment
21 of acquittal.

22 MR. COOPER: Yes, your Honor.

23 THE COURT: With respect to that, your contention
24 is that the evidence fails to make out a prima facie case
25 in that it fails to show an agreement between this defendant

1 jpb-17

2 and his co-defendant to defraud the United States as
3 charged in the indictment.

4 Now, with respect to that, as you indicated
5 earlier, there is the testimony of the Government's chief
6 witness, the co-defendant, Morris Brooks, to the effect
7 that he went to Rabbi Rosenblatt with two checks and stated
8 to him that he desired to get the checks cashed for the
9 payees because the payees were interested in this method
10 of proceeding so that they would not have to pay taxes,
11 or words to that effect.

12 With that understanding, Rabbi Rosenblatt
13 proceeded to cash the checks and according to the testimony
14 of Brooks took a portion of the proceeds, sometimes 10
15 per cent, sometimes less, for having cashed the checks with
16 that understanding.

17 The documentary evidence which corroborates
18 the testimony of Brooks, if the jury believes it, in the
19 form of checks endorsed by this defendant, Rabbi Rosenblatt,
20 in the form of checks drawn by him and made payable to
21 Mr. Brooks and in the form of bank records, recording these
22 various transactions. So that the Court finds that there
23 is evidence for which the jury can find beyond a reasonable
24 doubt that there was an agreement between the defendant and
25 the co-defendant to defraud the United States. That is,

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2 to cash these checks so that the payees could, would not
3 have to pay taxes on it, or whatever other purpose they
4 might have had in mind. It seems clear to the Court
5 that there is evidence from which the jury can find that
6 both defendants understood that the United States was some-
7 how being defrauded.

8 Now, with respect to the venue issue, the Court
9 finds that there were acts committed by the co-defendant
10 Brooks in furtherance of the conspiracy, that is, obtaining
11 these checks here in the Southern District and taking them
12 to Queens to this defendant to cash again in accordance
13 with their agreement which they both understood was a
14 device to defraud the United States. The technique or method
15 of doing business which would defraud the United States.

16 Of course, there is evidence quite apart from
17 any hearsay statement from which the jury could find that
18 this defendant participated and reached this agreement.

19 So, the motion made by the defendant at the end
20 of the Government's case for judgment of acquittal is
21 denied.

22 Now, Mr. Goldman, do you expect to call any
23 witnesses?

24 MR. GOLDMAN: Yes, we do, your Honor.

25 THE COURT: Can you give me some idea of how

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2 many so we will know.

3 MR. GOLDMAN: The number can range between
4 eight and sixteen. But obviously most of them will be
5 character witnesses. There may be two substantive witnesses.
6 That might take some time. Other than that, if Mr.
7 Macbeth wants to, after the first few come on, he might
8 want to stipulate to them and we will certainly be finished
9 by tomorrow.

10 THE COURT: We will proceed in the morning
11 then with your witnesses.

12 MR. GOLDMAN: Yes, your Honor.

13 THE COURT: Good evening, gentlemen.

14 (Adjourned to Thursday, August 12, 1976,
15 at 10:00 A.M.)
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